

# THE STATE OF DOMESTIC VIOLENCE IN SAMOA AND AMERICAN SAMOA

*A comparison of two societies sharing a single culture*



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## Introduction

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This report summarizes the findings of 33 key informant interviews: 15 with individuals living in American Samoa (AS), and 18 living in the country of Samoa (S). These interviews were conducted as part of a 6-month inquiry by the Alliance to assess the differences and similarities in the knowledge, attitudes, and beliefs amongst the Samoans in each country concerning domestic violence (DV) - a term which has become a defining variance between the two groups of informants.

The premise guiding this project is that *the people of Samoa are more **aware** of DV, more **committed** to, and more **organized** in their response to DV, compared to the people of American Samoa, as evidenced by the prevalence of media and awareness programs available in Samoa.*

To assess the hypothesis the project is designed to achieve three tasks using qualitative inquiry:

1. To evaluate 'awareness' of DV in the Samoa's the project includes an examination of advocacy, media, and population- based survey results between 1992 and 2017.
2. To gauge 'commitment' the project aims to describe and compare perceptions, knowledge, attitudes, beliefs and experiences in DV amongst a group of key informants in each of the Samoa's, and correlate these elements with how DV issues are prioritized, and resolved.
3. To assess 'organization' the project will describe the process of handling DV in each of the Samoa's to compare and contrast political, judicial, faith-based, and cultural protocols relevant to DV issues.

Key informants provide insight from a range of perspectives, including different genders, ethnicity, age, et cetera. They were asked to draw on their own understanding and experience, and to reflect on the understandings and experiences of others in their private and professional lives. Thus, these interviews provide an intimate view of the actual versus intended relationship between fa'aSamoa, society, and the behavior of Samoan people in terms of DV. The key informant interviews are one of three data collection methods in the project, which also includes a literature review and focus groups discussed in a separate report. The literature is discussed in this report to provide the context and historical evolution of DV issues in both Samoa's.

## Method

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### Selection:

Key informants were identified in both Samoa's based on their area of professional expertise, and categorized into one of the following groups: advocacy, faith based, judicial, law enforcement, education, healthcare or other. A few were interviewed by chance meeting using an informal line of inquiry inconsistent with the pre-selected informants. These include a retired businessman and an archaeologist from Samoa, and a federal government employee from American Samoa. These individuals are Samoans born and raised in the islands, and actively involved in their communities.

The interviewers are female Samoan advocates employed by the Alliance. From their extensive experience working and living in both Samoa's, they were able to effectively connect with principal government leaders and social advocates. They conducted face-to-face interviews during three trips to Samoa, locally in American Samoa, and used email questionnaires with informants whose schedules

could not meet theirs in a timely manner. Interviews were recorded, except for one informant in Samoa who asked not to be recorded.

#### Inquiry:

Interviews with key stakeholders were conducted using a generative series of foundational questions focused on three areas:

1. How DV is dealt with by law enforcement, the judicial system, in the village, and within families;
2. The extent to which DV is a priority concern in the lives of Samoan people; their awareness and knowledge of DV;
3. Resources available and needed for victims of DV, the perpetrators of DV, and the institutions tasked with creating laws to protect people from DV, as well as those who enforce those laws.

The relationship between DV and fa'aSamoa or Samoan culture was an underlying theme in all areas. Without explicitly including the fa'aSamoa in their line of questioning, the interviewers were able to move beyond the informants' professional knowledge, attitudes, and beliefs to probe into their understanding of cultural protocols, and the unique dynamics of Samoan family life.

#### Coding and Analysis:

Interviews were conducted using the informant's language preference: Samoan or English. All recorded interviews were transcribed by the interviewers to word documents in English and uploaded to 'Dedoose', a program which enables thematic analysis using an extensive network of descriptors and codes. The evaluator and acting Executive Director conducted a pre-analysis meeting with the interviewers to assess their experiences in interviewing and transcribing the recordings.

Six questions were considered when coding and analyzing the data:

1. What common themes emerge in responses and how do these patterns (or lack thereof) help to illuminate the hypothesis?
2. Are there deviations from these patterns? If so, are there any factors that might explain these deviations?
3. How are interviewees' environments and past experiences related to their attitudes and beliefs?
4. What interesting stories emerge from the responses?
5. Do any of these patterns suggest that additional information is needed?
6. Are the patterns that emerge similar to the findings of other studies? If not, what might explain these discrepancies?

Guided by these questions, the evaluator highlighted and sorted coded quotes to make comparisons between the two Samoa's and in relation to the informants' background and experience. Prior to final coding and thematic development, the evaluator and acting Executive Director conducted a post-interview discussion with interviewers to assess their responses to the initial codes. Coded excerpts were then downloaded and organized by 'domain': Micro or Individual Factors, and Macro or Interpersonal Factors.

Within the **Micro domain**, a subset of individual factors is identified as ‘causes’ and ‘results’ of DV:

FACTORS	CHARACTERIZATION
<b>Cause</b>	
Substance abuse	Alcohol/drug dependence as root cause of violence
Anger, loss of control	Lack of coping mechanisms; dominance, power
Exposure to family violence	Generational DV, norming violence as a behavior
Adultery and/or jealousy	Relationship instability; power
Controlling/dominant personality	Cultural role; interpretation of Biblical references
<b>Result</b>	
Stigma: anticipated & internalized	Result of abuse and barrier to help-seeking
Mental/physical health	Emotional and psychological abuse
Stress	Stemming from financial and cultural responsibilities

Within the **Macro domain**, the subset of interpersonal factors is further categorized into three areas: Aiga (family), Lotu (church), and Aganu’u (village, home). An informant from AS in the healthcare sector described Samoan culture: *“family is the core of everything and the church is the foundation”*. From a Samoan perspective, the individual only exists within the context of his or her faith, family and village. In fact, so embedded is this collectivist nature, informants suggest that the prioritization of individual needs and behaviors initiated by outside influences can be a *cause* of domestic violence. A researcher suggests, *“Samoan families who increasingly adopt nuclear family arrangements may be creating a greater potential for more overt coercion and physical force.”* (Crichton-Hill, Y. 2001).

FACTORS	CHARACTERIZATION
Aiga	
relationship factors	inter-family (extended) relationships
communication problems	inter-family relationships
child/family stress, discipline	norms regarding family relations, status and roles, discipline of children
stigma - anticipated	anticipated negative reaction to admitting and/or reporting abuse
family pride, respect	cultural contextualization or norming of acceptable behaviors
Lotu	
responsibility	what is owed to faifeau, congregation
Faith	interpretation of Bible
stigma - anticipated	anticipated negative reaction to admitting abuse
Christian values	protecting abuser, importance of family in church foundation
respect	respect of church leadership and the icon of church as cultural institution
Aganu'u	
fa'amatai	Responsibility, respect and cultural tradition of matai system, protocols
government	Responsibility of local, national, and international govt.
school environment	norming of discipline over children, boundary separating parents and teachers
factors related to the woman	woman's roles, status, cultural protocol
stigma	cultural conceptualizations - norming of abuse
social isolation	abused is isolated from family (nofo tane), ostracized
geographical isolation (rural)	less access to assistance, lack of knowledge of laws/norms regarding violence
fa'alavelave	responsibilities that may create stress between families

Using the framework of Micro and Macro domains, themes were extracted from the coded material. To elucidate the transcripts from a contextualized approach that incorporates academic philosophies and principles of fa'aSamoa, four foundational theories were considered: sociological, feminist, social learning, and human rights (Ah Siu-Maliko, M. 2017).

Sociological theories assume that DV is a behavior resulting from social stress and socialization or legitimizing of violent behavior toward vulnerable individuals. Both factors are evident in the literature and key informant responses.

- In the Samoa Health & Safety Study (2006), 70% of women stated that 'wife beating' was acceptable, and 50% of men surveyed said it was 'okay'.
- In the same Study, 39% of respondents reported 'seeing abuse against women in the past year', but only 25% of those people actually reported the incidents to authorities.
- Female participants in Samoa's Demographic Health Survey (2014) communicated an alarming level of acceptance of DV: 37% or four out of ten women agreed that 'wife beating' can be justified.
- In Samoa's National Family Safety Study (2017), 90% of children surveyed experienced some sort of violence and abuse. The National Study concluded that "there is an endemic nature of DV in Samoa and a persistent culture of violence against women, children and persons with disabilities."



The Executive Officer of Samoa's Ministry of Women, Fuimapao Beth Tuilaepa was quoted during the public hearing on the (2017) Study, "*the study is not telling us anything that we did not already know as a nation – I don't need a study to tell me that there is a prevalence of violence in our homes.*" (Sharma, 2017) The searing results of the Study prompted a 10-day 'fact-finding mission' by the UN Working Group of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in August, 2017. They (unofficially) conclude that 'domestic violence appears to be socially legitimized'.

In contrast, key informants in AS suggest that DV is not 'socialized', that the "*fa'aSamoa does not condone violence*". An educator in AS states that DV is happening "*within families so it's NOT a major problem for (American) Samoa as a community, just a problem within the family unit*", and another informant implies that DV is not a problem because there are "*only maybe 50 cases a year in AS.*" One explanation for these beliefs is, as an informant suggests, "*there is a lot of denial in our culture because we like all the good things about our people*". Informants in AS are particularly adamant that the fa'aSamoa is not the cause or rationale behind domestic violence. A faifeau from AS surmised, "*Some say that culture is one's identity, and so if one is of violent behavior, would you say their culture is violent? The fa'aSamoa alone is not of violence, but its people are.*"

Feminist theory emphasizes gender and power inequality in male-female relationships. It focuses on social norms which endorse the use of violence by males to exert their proscribed gender role (Lorber, 2010). Specifically, feminist theory 'characterizes domestic violence as a complex, multifaceted problem which involves an imbalance that exists in gender relationships' (Ah Siu-Maliko, M. 2017). Feminism seeks to empower the role of women in society. This modern theory directly conflicts with the cultural

roles and identity of Samoan women. The *'Women: Matai and Leadership Survey'* (2015) conducted in Samoa documents the growing number of women in positions of leadership in private and public sectors. Women enjoy an equal share of management roles, and in some areas, such as private for-profit businesses, they exceed the number of men. However, the survey respondents clarify that while women may earn their way into more, high paid jobs, and leadership roles in government, this does not equate to power – in society, in the culture, or in the family unit. For example, the literal meanings of the faletua (back of the house) or pastor's wife, and tausi (support) or talking chief's wife, convey the cultural expectations of the woman's role in the fa'aSamoa. In Samoa, the culture ultimately determines the status of women based on their location and life-style within their village, and the ranking of their husbands in the village hierarchy.

While the educated, employed woman may enjoy an improved social status amongst her peers, when she leaves the office and returns to home her status as dictated by culture is her reality. This is evident in both Samoa's when assessing the nominal sum of matai titles, and Fono or Parliament positions held by women (currently five in S, four in AS). Another edifying statistic is the low number of females in church leadership. While this issue was not raised in literature or any of the national studies, the institution of the Church, as the "foundation of the family" and social values in both Samoa's, is curiously missing from relevant dialogue. Based on the literature and key informant responses, the Feminist theory is more relevant in Samoa than American Samoa. Informants from Samoa also used DV-related terminology more often during interviews i.e. gender-based equity.

Social learning theory assumes that human behaviors are most strongly impacted by observing and imitating others (Bandura, 1977). Domestic violence is often referred to as a 'cycle of violence' wherein children observe violence in the home and at school, learning that it is acceptable and normal. Men who as children witnessed their parents' domestic violence were twice as likely to abuse their own wives than sons of nonviolent parents ([www.ncadv.org](http://www.ncadv.org), 2018). An informant from Samoa's judicial system stated, *"I tell them, when you do this your children see you and you're telling them this violence is okay."* This type of behavioral learning leads to 'generational violence' resulting from the norming and legitimizing of violence as a means of resolving issues, coping, modifying behaviors (discipline) and communicating. An informant from Samoa agrees: *"in the family, beating a child or saying bad words to a child is violence; it's something that wasn't written but passed from generation to generation."* Several informants from both Samoa's refer DV as a *"symptom"* and *"part of a cycle"*. An informant from the justice system in AS states, *"we are only addressing the violence, not the cause"*.

These beliefs point to a clear understanding that DV is the end result of a more significant problem. Since 2011 the United Nations has reported that the domestic violence in Samoa is a *"violation of women's human rights"*, which from a religious perspective points to a violation of God's creation of mankind which Samoans believe is the foundation of all human rights. Both perspectives are relevant to the fa'aSamoa, which is sanctioned by fa'amatai (family leadership) and lotu (church).

Within the framework aforementioned, the coded excerpts are cultivated into **three central themes**:

1. Domestic violence in American Samoa is defined, understood, prioritized, and addressed in a different manner than Samoa (which is an interesting development considering the majority of American Samoa's residents are immigrants from Samoa – Census 2010)

2. While some aspects of fa'aSamoa may contribute to the circumstances which initiate violent behavior, i.e. stress created by fa'alavelave, village disputes, etc. the fa'aSamoa is not the underlying cause of domestic violence in either Samoa
3. While great strides have been made in both Samoa's during the past 10 years to deter violence against vulnerable individuals, the criminalization of domestic violence at a level required to recognize its critical danger to society and future generations has yet to be achieved

### **Background: 'Domestic Violence Defined in the Samoa's'**

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According to the **U.S. Bureau of Justice**, domestic violence is defined as “a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person.”

In the **United States**, nearly 20 people per minute are abused by an 'intimate partner' – someone with whom they share an intimate relationship such as a husband, boyfriend, life-partner. This statistic is not limited to male-female relationships, however 76% of domestic violence incidents were committed against females. According to the National Coalition Against Domestic Violence (NCADV) one in three women have been victims of physical violence by an intimate partner in their lifetime. Between 2003-2012, Intimate Partner Violence or IPV accounted for 15% of all violent crimes, and happened most often to women between the ages of 18-24, during which a weapon is involved in 19% of the cases (Bureau of Justice Statistics, 2014). These statistics exclude the U.S. Territory of American Samoa which doesn't consistently collect and report specific domestic violence data, but are highlighted here to describe the prevalence and enormity of this problem nationally.

According to Title 47 of the Code Annotated in the **American Samoa**, domestic violence is defined as “the occurrence of one or more of the following acts by a family or household member, but does not include acts of self-defense:

- (A) Attempting to cause or causing physical harm to another family or household member
- (B) Placing a family or household member to engage involuntarily in sexual activity by force, threat of force, or duress.”

This definition clearly falls short of the U.S. national characterization of DV. According to the 2010 Census, of the 57,291 residents in AS, 93% are 'Pacific Islander' and 49% are female. While there appears to be ethnic homogeneity, in fact 36% of residents are 'foreign born' – the majority from Samoa. While migrant Samoans share the same culture of fa'aSamoa, they do have unique perspectives and experiences unlike American Samoans whose lifestyles are more westernized and influenced by the U.S. education, political and economic systems. These differences and how they affect the issue of domestic violence are explored in detail further into this report.

The country of **Samoa (S)** is home to 194,320 people, 92% of whom are Samoan of which 48% are female (Census, 2016). Samoa is a unitary parliamentary democracy with a young political history rooted in English governance under the flag of New Zealand (England) from 1914 until its independence in 1962. Samoa was admitted to the United Nations on December 15, 1976. As will be discussed further

in this report, as an independent country and member of the United Nations, Samoa's governance is directly influenced by foreign entities who invest significant capital into the social and economic infrastructure of Samoa.

According to the National Family Safety Study, released in 2017, there was an increase from 40% (2001) to 60% (2016) in female respondents self-reporting experiences of domestic violence, with the majority being married between the ages of 20-37. Emotional abuse was the most prevalent type at 78% of respondents, followed by physical abuse at 22%, and sexual abuse at 5% (much lower than the 19.6% reported in the Samoa Health & Safety Study of 2006). 90% of children surveyed said they experienced some sort of violence and abuse; while 100% of persons with disabilities surveyed experienced 'some sort' of violence and abuse. In 2012 there were 200 reported cases of domestic violence compared to 723 cases in 2015, reflecting a high number of unreported cases relevant to the percentage of women self-reporting experiences of domestic violence (Ministry of Police). The lack of population-based data on DV in American Samoa stands in stark contrast to that of Samoa.

### **Background: 'Context of Domestic Violence in the Samoa's'**

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The status of women in each of the Samoa's is complex. In its simplest explanation, women share equal status with men within the context of the fa'aSamoa. Before discussing domestic violence in the Samoa's, one must understand the deeply rooted, culturally based roles of men and women as dictated by tradition and church. Additionally, while American Samoans and Samoans share the same culture, the impact of westernization has resulted in the adaptation of some values and perspectives towards a more 'modern' status quo concerning gender roles in the U.S. Territory.

The fa'asamoa provides expectations of a Samoan's behavior in relation to gender, based on culture and tradition. At inception, these expectations were developed in order to survive daily life. "Gender is a collective and communal practice and gender roles are negotiated in relation to the shared needs of the wider family and community." (Matai & Leadership Survey, 2015) As a 'collectivist' society the norm is communal, not individualistic; everyone in the village must perform their critical roles to maintain order and optimize group performance. "The Samoan village is made up of two conceptual entities: the 'village of men' and the 'village of women', which reflects the gender division of labour on which almost all traditional institutions are based." (UNICEF, 2006)

Additionally, the sacred space or 'Va Tapuia' governs all social relationships in fa'aSamoa by male and female roles. The Va Tapuia emphasizes that within the family the male or brother is the leader of the family, while the female or sister is the 'fautua' who carries the dignity of the family (Matai & Leadership Survey, 2015). The bond between brother and sister, male and female, is the 'feagaiga', the model for all male-female relationships. It is one of respect for each other, a covenant which provides a foundation for all male-female interactions as well. Women, especially sisters, are held in high esteem. For this reason, the majority of the key informants adamantly assert that domestic violence is not part of the fa'aSamoa.

However, in contrast, the political, economic and social status of women in both Samoa's leaves much to be desired. While the fa'aSamoa in theory provides for a defined role which 'protects' the female, and the communal structure provides a safe-haven for the vulnerable and wounded, it also perpetuates – by modern, western standards – a negative social attitude towards women and purports harmful stereotypes and practices against them. Respondents to the Samoa Health & Safety Study (2006) agreed

that the “entrenched attitudes towards women’s roles in public life and decision-making are barriers to advancing gender equality.” Social ideologies of inequality, weakness, and devaluation lay just below the surface of daily living, and not easily spoken of by the common citizen in either Samoa. Women in Samoa verbalized feelings of discrimination, revealed in the Matai & Leadership Survey (2015), and the Political Representation & Women’s Empowerment in Samoa Study (2015): “There remains an entrenched cultural division of gender roles and responsibilities between men and women (man = leader, woman = advisor) revealing the influence of traditional community perspective.” Changing the value perspective of women by men is the aim of several national agencies, and recent legislation aligned with UN recommendations to improve Samoa’s record on human rights.

### **Background: ‘Criminalization of Domestic Violence in the Samoa’s’**

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The way in which domestic violence is criminalized by a democratic government is a reflection of the knowledge, attitudes and beliefs of the people of that society. During the interviews, the Alliance attempted to capture these elements. To understand the themes developed from those responses, a brief history of the evolution of human rights and domestic violence legislation is required.

The United Nations’ Development Programme produces a ‘Gender Inequality Index’ (GII) which rates the position of women in 159 countries, providing insights in gender gaps in major areas of human development: health, empowerment, and the labor market. The higher the GII value the more disparities exist between males and females in the rated country. Of 159 countries, **the U.S.** rating is 43 (including AS) and Samoa’s rating is 97 (UNDP, Human Dev. Report, 2016). The U.S. has signed the Convention for the Elimination of all Discrimination Against Women, but has yet to ratify it.

In the U.S., laws concerning domestic violence support the constitutional rights protected in the various pieces of legislation institutionalized over the past 30 years. Between 1789, when Amendment XIII, Section 1 of the U.S. Constitution was passed to criminalize ‘slavery’ and ‘involuntary servitude’, nothing was done to further the protection or advancement of women in the United States until the 1990’s.

The raising of public awareness by non-profits representing DV victims and survivors became a catalyst for change. The “Day of Unity” was established in October 1981 by the National Coalition Against Domestic Violence. The first Domestic Violence Awareness Month didn’t occur until October 1987. In the same year, the first national DV toll free hotline was created. But it wasn’t until 1989 that Congress passed Public Law 101-112 designating October as National Domestic Violence Awareness Month. In 1994 the National Advisory Committee on Violence Against Women lobbied the Department of Justice for improvements needed in the nation’s response DV. In 1995 the Office on Violence Against Women (OVW) of the Department of Justice was established by legislation (Violence Against Women Act of 1994). In 2003 the Act was amended to provide for transitional housing assistance grants for child victims of domestic violence.

Since 2003, with legislation as the impetus for nationwide change, Congress has passed the Prison Rape Elimination Act (2003), the Tribal Law and Order Act (2011), the Violence Against Women Reauthorization Act (2013). Various government entities have developed initiatives to further the protection of women: the first White House Advisor on Violence Against Women (2009), the STOP Program, the Engaging Men project, the ‘1 is 2 Many Campaign’, the Education, Training and Enhanced Services to End Violence Against and Abuse of Women with Disabilities grant program, the National Action Plan on Women, Peace and Security (2011), the national Strategy to Prevent and Respond to

Gender Based Violence Globally (2012), the “It’s On Us” campaign (2014). The majority of these grant programs and initiatives were founded under President Obama by Memorandum, and implemented by OVW. While U.S. federal laws and initiatives do not over rule territorial law in American Samoa (in most cases), the U.S. provides federal funding which underwrites over 60% of the territorial government (U.S. Dept. of the Interior, 2015). As such, federal laws do provide the lead for, and have tremendous impact upon, the development of legislation in the territory.

Upon Deed of Cession in 1900, **American Samoa** became a U.S. Territory. In 1967 it adopted a constitution and held its first constitutional elections in 1977. In 2004 the Fono or local congress passed Title 47 of American Samoa’s Code Annotated – Domestic and Family Violence – which defines domestic violence, civil orders for protection, and duties of the Court. It also assigns responsibilities to the Departments of Police and Court Probation.

Title 47 provides very little in the way of criminalizing domestic violence itself. Rather, it defines DV as an ‘aggravating factor’ when occurring with other ‘criminal violations’. Specifically, section 47.041 entitled ‘Crime involving domestic of family violence defined’ states:

- (a) a crime involving domestic violence occurs when a family or household member commits one or more of the following crimes against another family or household member:  
arson, assault and harassment, burglary, robbery, tampering; property damage; homicide offenses; kidnapping, felonious restraint, false imprisonment; sex offenses; stealing and related offenses; weapon law violations; offenses against public order’ family offenses (bigamy, incest, etc.); trespass.
- (b) The above criminal laws encompassing (a) shall be enforced without regard to whether the persons involved are or were married, cohabitating, or involved in a relationship.

In other words, the act of domestic violence is criminal if concurrent with the criminal acts listed in (a). There are no penalties above those assigned to the criminal acts in (a) set specifically for DV. The only difference is that the persons involved are defined as family or household member(s). For example, if a husband emotionally, psychologically or financially abuses his wife the act would not be criminal if he doesn’t do so in conjunction with one of the acts in section (a). This legislation clearly indicates a lack of understanding and awareness of the many facets of domestic violence.

The progression of legislative protections and subsequent initiatives fall short of the U.S. national paradigm.

In contrast, **Samoa** has achieved significant progress in legislation and advocacy against DV over the last 15 years owing to two sources: United Nation’s monitoring of human rights issues in Samoa, and subsequent social awareness and advocacy initiatives led by the U.S. OVM’s counterpart in Samoa - the Ministry of Women, Community & Social Development. Figure 1.A describes the timeline.

Until 1991, only ‘matai’, the majority of whom are males, could vote in elections. In 1992 Samoa ratified the UN’s Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW. In support of the treaty, Samoa endorsed the National Policy for Women (2010-2015) as a national strategy for strengthening interagency collaboration against DV and achieving the required ‘zero tolerance’ of discrimination against women by the UN.

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*The term ‘domestic violence’ is an aggravating factor of the criminal acts listed, but is not a crime in and of itself.*

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In the Report of the Working Group on the Universal Periodic Review (2011), the Working Group found that Samoa ‘upholds and protects human rights consistent with its cultural and environmental context.’

However, the UN also stated that domestic violence is related to a wider problem – the ‘under representation of women in decision making processes’ both nationally and locally. Herein lay the beginnings of meaningful and productive dialogue between Samoa and its mentors at the UN, in New Zealand and Australia. With **‘human rights’ as the focus, and domestic violence classified as a human rights violation**, the UN and its partners were able to help Samoa implement major policy reform.

Specifically, the UN report of 2011 pointed out the following issues:

- (1) Decriminalization of abortion (Crimes Act p. 53)
- (2) Addressing ‘patrilineal lineage of property’ which the UN correlated with the achievement of status and power and thus ‘participation in decision making’ activities (Samoa responds adamantly that ‘patrilineal lineage’ has no cultural or legal foundation in Samoa)
- (3) Addressing the lack of women in Parliament (Samoa passes Constitution Amendment in 2013 to require 10% quote of female parliamentarians)
- (4) Increasing the minimum age of criminal responsibility to the international age of 16 years

Since 2011, Samoa has not decriminalized abortion, has not repealed discriminatory provisions in the family law, and has not increased the minimum age of criminal responsibility. However, Samoa has conducted several population-based studies with which to gather the information necessary to formulate evidence-based responses to the UN inquiries, and implemented at least 20 national policies and social awareness campaigns to improve knowledge, attitudes and beliefs concerning domestic violence during the last 10 years. The majority of these address physical violence between partners and child abuse, however the majority of key informants stated that emotional, ‘verbal’ and psychological abuses were equally prevalent. Only in rare instances is sexual violence and assault mentioned in public discussion. Figure 1.B provides a list of the most current and significant initiatives undertaken in Samoa since 2005.

### **T**heme 1: Domestic violence in American Samoa is defined, understood, prioritized, and addressed in a different manner than Samoa.

The general premise of the inquiry is that Samoa is more progressive in its efforts to eradicate domestic violence than is American Samoa. A historical review leading up to present day legislation, correlated with the development of advocacy and awareness efforts reveal that legislation is the impetus behind infrastructural change in Samoa, and American Samoa vis a vis the United States. For both countries the stimulus was the Conventions they signed to protect human rights as members of the United Nations, coupled with non-government advocacy. In this sense there is little variation between the two countries.

However, the context in which domestic violence, as a violation of human rights, is defined, understood, prioritized and addressed in each country is varied despite the fact that they share a common culture. While key informants in AS did not mention human rights at all during their conversations with interviewers, it was frequently mentioned in Samoa indicating a higher level of DV awareness.

A Judge in Samoa stated, *“Laws are tweaked according to our culture...culture has a huge impact on the law and our village councils are our key to eliminating DV – they are the eyes and ears of the village.”*

Samoa places a much higher value on the role of traditional village governance than AS, where traditional governance is relegated to the Governor's Office of Samoan Affairs which functions as a liaison between territorial and village leadership. There also exists legislation in the AS Code Annotated, Chapter 04 of Title 03, which establishes 'Village Courts' overseen by an associate judge of the High Court. The Chapter states that the 'village courts shall have exclusive jurisdiction to impose penalties for the violation of village regulations' and that 'no village council or village . . . may impose penalties for such violations'. Such courts do not exist in the villages at the writing of this report. In contrast, Samoa passed the Village Fono Act which preserves the authority of the village council as a governing entity recognized by the Constitution, which includes jurisdiction over acts which 'violate harmony and peace within the village'. Great effort is made to include the villages in all aspects of local governance, with most notably, legislation to establish the Sui o le Nu'u or women's representative and liaison between the government and council in "each traditional village". There appears to be a higher level of commitment to address DV in Samoa, and an organized policy-level process for doing so.

Key informants from both Samoa's reveal similar value systems and understandings of DV but there is one unique difference between the two: the informants from AS point to causes emerging from acculturation and modernization of the culture, while informants from S suggest that DV is caused by multiple stress factors originating from a traditional lifestyle, dominance by men over women or gender inequality, and indeed – the fa'aSamoa. Informants from S also tend to use the words 'gender-based violence' and 'intimate partner violence' more often than those in AS, demonstrating a deeper understanding of, and familiarity with, the dynamic of DV.

In general, key informants from both Samoa's express a 'dismay' that domestic violence exists, and refer to DV almost as if it is something that 'happens to someone else'. A few refer to childhood experiences in the course of normal discipline by parents, and these were all males. An educator from Samoa states, *"reasonable discipline is allowed (in schools) but not to the point when it becomes assault."* A faifeau from Samoa agrees: *"I wouldn't call it domestic violence, rather corporal punishment towards children that need to be disciplined; our culture doesn't condone DV."* It is important to note that 'violence' aka 'discipline' by a teacher of a student is not included in the list of relationships considered to be 'domestic or family violence' in either Samoa. Physical discipline is accepted, especially of youth.

From AS informants state:

*"Poverty is a stress factor, as well as alcohol . . . the man is stressed out over his fa'alavelave and goes to drink and comes home and takes it out on the wife."* (Male, Healthcare)

Several informants from the judicial sector state that from their experience (in court) *"stress from finances, economic and social status"* are issues, as well as a *"power struggle regarding the man being the head of the household"* in a modernizing society where women have increasingly more economic opportunities. From a macro-perspective, informants suggest work-related and financial problems as a key cause of the breakdown of social norms – *"the effects of non-Samoan influences on the fa'aSamoa which affects the family's values, a man's view of and valuation of the woman."*

The perspective of fa'aSamoa - the value of the collective and the role of the man in the home as authoritarian, endorse a basic understanding of gender relations in the Samoa's. However, a female advocate from Samoa cautions, *"one should be careful when trying to ascribe a cultural practice to issues of power and control because that can happen anywhere."* In other words, DV resulting from

gender-based authority is not unique to the Samoa's. Another informant states, "*fa'aSamoa is about control – stemming from the man – first as aumaga, then as matai and breadwinner*" suggesting that as a man achieves a level of authority in the village his power extends to the home. From this standpoint, the issue of power is generative, and private - occurring within the home and village, not under the purview of the law.

In general, AS informants suggest that DV is an act that happens between man and wife, girlfriend and boyfriend. DV does not seem to include violence between other family members, others in the household, parents and children (although the law is inclusive). They do acknowledge emotional and verbal abuse, stalking and harassment between intimate partners. Informants also suggest a 'desensitization' surrounding abuse amongst parents and partners, and denial of child neglect especially during bingo. ***The lack of awareness and understanding of the broad definition of DV suggests a critical need for public education and awareness in this area in AS.***

From S informants state:

*"Violence happens within the decision-making in the villages and culture."* (Faifeau) In general, S informants suggest that **while the fa'aSamoa does not condone violence, the responsibilities, traditional roles and protocols of the fa'aSamoa create an environment in which women are inherently subordinate to men** which then translates to male dominance, and further transmutes to discrimination and in the worst case, 'wife beating' for cause such as adultery or withholding sex. In fact, the Samoan word for DV is 'sasa' which denotes discipline. A female advocate from Samoa states, "*what came through our study was that if the wife is disobedient, if there are differences in raising the children, if there is sexual dissatisfaction, if the wife has medical problems and the husband looks elsewhere for satisfaction – these are all results of inequality, the feeling that the husband can look down on the wife and do what he wants.*" It appears from informants' statements, that while men are not socialized to treat women with disrespect or as inferiors, hence the Va Tapuia, **DV is a socialized response to, and result of, dealing with everyday life issues within the Samoa culture which includes religion.**

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*"They don't know  
it's violence."*

*Faifeau, Samoa*

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Informants state that the "*use of power and control*" comes from the "*misinterpretation of the culture and the Bible*". Advocates suggest that the use of literal translations of the Bible to fit individual (male) needs is a **generational source of unequal power relations through religion**. In fact, during her presentation of the Family Safety Strategy Survey (2017), the CEO of the Ministry of Women pointed out **the 'wrong interpretation' of scripture**: "*The Bible says that fathers are the head of the family and it was interpreted as 'owner-pule' and therefore this pule can discipline. Is that really what the Bible says, and now because it's been repeated over the years that this is how Samoan families have been operating for the longest time.*" According to the CEO, the Samoa government signed an MOU in 2017 with the National Council of Churches to partner in messaging non-violence.

While lack of awareness is an underlying theme, the cause of this shortcoming is disputed. One faifeau states, "*they don't know that it's violence.*" Alternatively, advocates suggest that gender inequality grounded in cultural practices and societal norms are to blame. (Interestingly, mental/behavioral health and drug use are not widely discussed.) From the healthcare, law and judicial sectors – the informants who actually deal with DV cases – a sub-theme emerged: "*victims think it's normal*", "*it's common and*

they don't want to shame their families", "people presume that men have control or determination over women". They point to the overwhelming problem of DV in both Samoa's: **the under-reporting of DV incidents and lack of disaggregated statistics.**

According to an informant from the legal sector in AS, 230 complaints of DV were filed in 2016. In Samoa, 175 cases of DV were reported to the Ministry of Police between July 2014-March 2015. Informants in both Samoa's express a need for better data regarding DV. (The UN inquiries of 2011, 2012 and 2016 point out the lack of disaggregated DV data from Samoa.)

The number of recorded incidents in Samoa do not correlate with national survey results between 2000 and 2014 which reveal a high prevalence of DV, and an overall increase in self-reported incidents from 40% to 60%, inclusive of emotional, physical and sexual abuse.

Informants in both Samoa's indicate that DV is grossly under-reported for a few reasons:

1. The stigma (individual/micro) surrounding DV – fear of retaliation, ostracization, shame
2. The stigma (interpersonal/macro) surrounding DV – fear of shaming the family, fear of overstepping boundaries and breaking traditions regarding roles and 'ones' place' in the family
3. Normalization and legitimization of DV – people think it's normal i.e. *violence is how we communicate*, part of the culture, religious origins

The under reporting of domestic violence incidents is not unique to the Samoa's. Police were notified in only 56% of the 1.3 million non-fatal domestic violence incidents that occurred in the U.S. between 2006-2015 (Bureau of Justice Statistics, 2018). According to the Samoa Health & Safety Study (2006) 54% of women experiencing DV 'never told anyone about the abuse until the survey'. Thirty-nine percent of participants reported 'seeing abuse against women in the past year' but only 25% reported it. What *is* unique to both Samoa's, is that the majority of DV incidents involve direct witnesses. In communal living arrangements typical of the Samoan village, homes are open, built close together, and everyone generally knows what everyone else is doing. There is little privacy and few 'secrets'. Informants describe the 'hiding' of DV as a 'culture of shame', and others as a form of 'respect' for one's family. ***Perhaps the word 'ignoring' is more accurate than 'hiding'.***

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*In effect, the Samoan word for DV is 'sasa', which denotes discipline*

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A male advocate from AS states, "because of the *fa'aSamoa* and the respect we have for our culture, we don't report domestic violence." This is reiterated by the majority of informants from both Samoa's, and supported by literature and population-based surveys. A male health worker from AS reveals, "the way we've been brought up in our culture it's built around respect and sometimes we carry it to the point that we forget that a person has been beaten...either physically or mentally."

From an ethnocentric perspective it would seem that these attitudes and beliefs violate 'basic human rights' (UN, 2011). In the Report of the Working Group on the Periodic Review of Samoa (2012) the UN inspectors noted that 'harmful norms, practices, traditions, patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in all sphere of life . . . perpetuate discrimination against women . . . and the persistence of violence against women.' The reporters also expressed a 'serious concern that DV appears to be socially legitimized and accompanied by a culture of silence and impunity...so cases of violence are under reported.'

From the judicial sector in AS, informants agree that **domestic violence is the ‘symptom’ of a greater problem** which then contributes to the lack of reporting: *“so many unreported cases are handled by village councils and churches . . . but they don’t know how to handle these issues; they don’t realize it’s a cycle of violence and taking care of one time doesn’t cure the problem.”* Informants also suggest that the tenets of the fa’aSamoa that ‘protect’ and value the woman such as Va Tapuia and taboo against violence can become rationalized by individuals as reasons why DV should not be reported – because it is in fact a shameful thing, a thing to hide, and also because perhaps the woman *should* be subservient to the power and needs of the man. For example, a physician from Samoa describes this paradox: *“we were brought up with a mentality of power, and that’s the power that most matai exercise and it might be seen as violence, but it’s this same power that when exercised, villages come together and things fall into place.”* A female advocate in AS explains, *“Our culture does allow violence sometimes, we use this violence as a way of being domineering amongst our people, especially in trying to bring them to work together.”*

A non-Samoan from AS in the judicial sector made this observation: *“what I think is unique about the fa’aSamoa is the strong family system and the matais – I think that the matais really want to deal with this in families rather than go to court and there’s a good side to that if we can channel it right – there’s a lot of support there that we don’t have in other places.”*

An advocate from Samoa suggests that with the media focus on several high-profile criminal cases in Samoa involving DV, *“attitudes are changing, people are no longer pretending that this isn’t an issue or this is a private issue. And it’s becoming something that’s of national concern.”* The number of initiatives, policies, and programs aimed at reducing DV by increasing opportunities for female representation in politics, female leadership in business and revenue generating capacity building amongst village women’s committees reflects the transformation that Samoa is working hard to achieve.

In summary, despite sharing a common culture, the informants from each Samoa suggest the following:

1. Adults in Samoa demonstrate a heightened awareness and educated understanding of domestic violence compared to adults in American Samoa;
2. The traditional village lifestyle and governance has a greater impact on gender equality in Samoa than American Samoa;
3. The cultural concept of ‘sasa’ legitimizes abuse as being discipline between parent and child, husband over wife, village over family and perpetuates domestic violence in both Samoa’s.
4. The stigma surrounding DV perpetuates the victimization of women.

**T**heme 2: While some aspects of fa’aSamoa may contribute to the circumstances which create potential for violent behavior, i.e. stress created by fa’alavelave, village disputes, etc. the fa’aSamoa is not the underlying cause of domestic violence in either Samoa

An advocate in S states, *“there is a positive aspect of the culture – families are the ones who victims run to – that is the main prevention (component) that can strengthen families because in the culture you don’t live alone. The culture can still be seen as prevention by protection through the village, village council, and church; these are the culture aspects of prevention.”* Another advocate agrees, *“Fa’aSamoa can contribute to how we END gender-based violence because of the fa’amatai system – one can monitor members of your community, if you have a village ‘sa’ on hitting your wife then that would change the practices of that village.”* The leadership in Samoa has moved in this direction with their

most recent policy: the Samoa National Policy for Gender Equality 2016-2020 indicating a high level of committed political will to ending domestic violence.

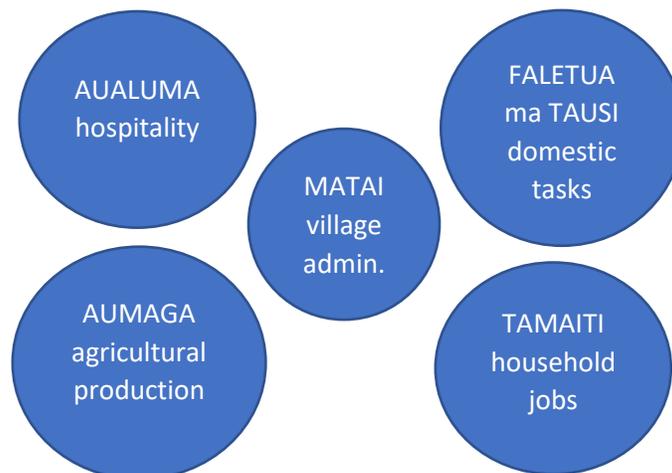
The Policy is the culmination of 20 years of research, learning, and dialogue in the Samoan community. One of the critical components of the Policy is the Samoan context. Most notably, the writers state, 'prevention can be effectively addressed through cultural and social practices, creating violence free homes for safer communities in line with the '*a maluifale, maluifajo*' concept – a Samoan proverb that means: if you are safe in your home, you should also feel safe in the village' or in other words, protection starts in the home and extends to the community.

Research has shown that underlying causes of DV in the Samoa's include disconnect between evolving roles of men and women, changes in lifestyles and living arrangements, valuation and definition of privacy and autonomy.

The Policy recognizes the fa'aSamoa context and the roles that religious and social norms and values play in achieving gender equality in Samoa. While gender equality is the goal, there is a definite focus on prevention and response systems to 'all forms of violence' as well as service delivery to survivors using a holistic approach that addresses several barriers to overall success amongst women: health, economic opportunity, education and decision-making roles.

The Policy states, 'Gender equality refers to the equal rights (ala tutusa), responsibilities (matafaioi) and opportunities (avanoa) of women and men and girls and boys. Women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Equality between women and men is seen both as a human rights issue and as a precondition for, and indicator of, sustainable people-centered development.'

Key informants are adamant that DV is no different in the Samoa's than it is worldwide and that DV is behavior resulting from a person, male or female, who feels power over another person and uses that 'power' to control, influence, affect the weaker person. It is also 'about socially constructed roles' of both men and women and how those roles are molded by the tenets of fa'aSamoa and religion. Fairbarin-Dunlop (1996) provided this model as an understanding of the 'domains of Samoan life' (Crichton-Hill, 2001):



Notice that the circles do not overlap, they are distinctly separate. Traditionally, these roles work together under the leadership of the matai of the family, who participate in the village council as

representatives of a clan or fuiala, reporting ultimately to the highest ranked matai on the Council. The very **foundation of the society is predicated upon a hierarchy supported by deep rooted, ancient, cultural protocols**. Acts of violence may be rationalized if in response to the need to maintain order, discipline, tradition – as a male in healthcare from S states, *“once we lose the matai system, then we lose the community, we lose peace within the communities; it is what controls things.”* The UN reports assert that this form of control is a violation of human rights. And a female advocate from S agrees: *‘you should not use violence as a means to communicate leadership’*.

Though a third of the women surveyed in the ‘Matai & Leadership Survey 2015’ in Samoa agree that ‘wife beating’ is okay, and that men should discipline wives, and even though the fa’aSamoa may state that the woman’s role is as an ‘advisor’ to the man’s role as decision-maker, nowhere does it state, in writing or oral tradition, that the decision-maker may beat the advisor or that the man may discipline the family in ways that violate Va Tapuia and other sacred cultural protocols. In terms of male leadership and the fa’amatai system, according to the ‘Political Representation & Women’s Empowerment’ report (Natl. Univ. of Samoa, 2015) ***“our research has produced no discovery of any oral tradition or historical evidence barring female matai”***. That being a traditionally male role, the statement implies that the fa’aSamoa also does not condone gender-based leadership.

In its Samoa National Policy for Gender Equality 2016-2020, the country’s leadership attempts to mediate between the ‘tradition of discipline’ seen by the UN as ‘violence’, and the protection and advancement of vulnerable people in society. Two underlying themes emerged from the interviews:

1. The governments of each Samoa have a responsibility for protecting its citizens from violence;
2. Education is key to ending domestic violence.

Interviewers asked several informants if they saw government partnering with non-government agencies to address DV, and if they felt government was doing enough to stop DV. The majority of informant responses put a great deal of responsibility on the government and its role in eradicating DV. Primarily, they felt that the governments in both Samoa’s need to *‘beef up punishment’* for perpetrators because that is the *‘government’s role: to create the laws and enforce the laws’*. They also indicated that the role of non-government agencies is to provide services for victims and families. Informants did not speculate on the role of traditional government (village councils). In terms of individual responsibility, a faifeau from S states, *“we see this type of thing (DV) happening with people who have low education”*, and another suggests that *“violence comes from when they don’t know how to handle their feelings”*. Informants feel that education should come from both the government and non-government/profit agencies.

In summary, the literature is supported by key informant statements asserting that

1. The fa’aSamoa has been interpreted over the years by the Samoan people and religious leaders in ways that rationalize violence to ensure social harmony and cultural propriety;
2. The fa’aSamoa can also be a means of protecting Samoan people from violence if the government and churches can focus on educating the public on what DV is and teach alternative behaviors to cope with domestic problems.
3. Key Informants suggest that there is a high level of awareness of DV in Samoa, and their leadership is committed to an organized response that reduces human rights violations.

**Theme 3: While great strides have been made in both Samoa's during the past 10 years to deter violence against vulnerable individuals, the criminalization of domestic violence at a level required to recognize its critical danger to society and future generations has yet to be achieved**

Domestic violence is not a crime in itself in either Samoa. At best, it is an aggravating factor to a felony such as assault, homicide, or rape. Considering the fact that the majority of legislation concerning DV has been established only in the last 20 years, even in the most developed countries such as the U.S., it is no wonder that existing laws are simply designed to protect the victim by restraining and controlling the perpetrator, and mediating the situation.

In American Samoa, Title 47, established in 2004, intends to 'recognize the importance of domestic violence as a serious crime against society and to assure the victim the maximum protection from abuse which the law' can provide. It defines 'domestic or family violence' as physical harm to another family member, placing another family member in fear of harm, or involuntary sexual activity by force. 'Family members' include adults and minors who are not related, and there is no stipulation for co-habitation.

In Samoa, the Family Safety Act of 2013 was established to 'provide for greater protection of families and the handling of domestic violence and related matters.' Domestic violence is defined as abuse that is 'physical, sexual, emotional, verbal and psychological, includes intimidation, harassment (including fear of harm, stalking and any other controlling or abusive behavior towards a complainant'. The Act is clearly more comprehensive than Title 47 and reflects an inclusive understanding of the nature of domestic violence.

Title 47 provides for two types of 'protection' for the victim (section 47.0203): an 'emergency order for protection' which expires after 72 hours, and an 'order for protection'. These are basically restraining orders, the violation of which is a misdemeanor punishable with up to 6 months in jail. A mandatory fine of \$150 is collected upon conviction in addition to any other monetary requirements the judge may order. A 'crime involving domestic or family violence occurs when a family or household member commits one or more' of a list of felony crimes against a household member including assault, harassment, burglary, bigamy, kidnapping. In effect, domestic crime in and of itself is not a crime – simply having acted in violence against a family member is not a felony. The arrest can only be made if there is physical harm, and the punishment is limited unless the perpetrator is ALSO convicted of a listed felony.



Informants from Samoa reveal that their law is very similar. "Someone can only be convicted of a DV offense if there's some kind of physical assault" according to police officer. The Family Safety Act provides two forms of victim protection as well: an 'Application for Protection Order' which is a standard restraining order requested by a victim or someone on behalf of a victim; and an 'Interim Protection Order' which could be requested by a victim or established by the Court when 'there is sufficient evidence that the respondent (perpetrator) is, or has, committed an act of domestic violence and the victim is in imminent danger.' In the latter, the perpetrator is required to appear in Court within 10 days of issuance – basically a fast-tracking of the case. Unlike AS, the Orders remain in force until 'set aside' by the Court.

When comparing Title 47 to how it is implemented in the field according to key informants, it appears that the law is being interpreted by police and the courts according to what they feel is appropriate. The law places the onus on the police officer responding to a call. According to an informant from the law enforcement sector, *"When we (police) respond, the initial report is written as PPD i.e. **if there is a call from a wife that the husband beat me, then it's recorded as a PPD. Often she'll say she doesn't want to press charges but there are times when we'll still arrest him under PPD, including if there is a mark on her face which is assault, or even if there is property destroyed.**"* This statement implies that domestic violence is not prioritized as a serious offense, relegating a 'beating' to a Public Peace Disturbance (PPD) which is a misdemeanor. According to other informants, the typical protocol for a DV situation is that the police will determine whether or not the victim(s) is in imminent danger. The violent perpetrator, especially if he/she is intoxicated, is arrested for a PPD and waits in jail for arraignment in District Court. It is up to the responding police officer to refer the victim to services.

According to Part III, Section 15 of the Family Safety Act, every police officer in Samoa who receives a report of domestic violence is required to 'render assistance' within 12 hours of the report 'without any discrimination on any ground such as race, color or sex, birth' et cetera. Assistance is described as making arrangements for the victim to be relocated to safety, receiving medical treatment and counseling, informing the victim of his/her rights and resources under the Act. A police officer from Samoa states, *"I have done trainings with the police on these DV cases – they are required by law to make an arrest if its determined that it is a DV situation. They will make an arrest right there; the next morning that individual will be at District Court."* However, an informant guessed that *"90% of women don't want him (i.e. husband, partner) locked up."* The Act provides for a single caveat which puts the onus on the responding police officer, similar to AS. In Section 16 (2), the law states 'where a report of domestic violence involves any other form not being physical or sexual, the police officer may, where the officer considers it appropriate . . . have the matter referred to an authorized counseling agency' (as opposed to making an arrest). This would be a way for the victim to 'save face' in the community and her family by choosing not to reveal physical or sexual abuses, and therefore have the perpetrator avoid immediate arrest.

According to an informant from emergency medical services in AS, *"Every week we'll get a DV call, it's very often. We stabilize them then move them to hospital but if they refuse they'll probably remain in police custody (for their protection) then it's a matter of them being referred to the proper social service and those service people will stand up for them. By the time we get involved the incident has happened several times."* Key informants express their concern that victims often fall through the cracks in terms of referrals to services. One informant shared, *"Victims of Crimes Act agency is a frontline responder but we can't do our job if they (police and courts) are not reporting what's going on – there's no report."* An informant from the Courts validated this sentiment – *"we don't normally get affidavits or facts till they show up in district court on arraignment."* This contradicts Title 47 which clearly states that 'law enforcement officers who respond to allegations of domestic or family violence are REQUIRED WITHIN 72 HOURS of the response to either inform the prosecutor's office or provide a copy of their police report to the prosecutor's office.' Additionally, 'a law enforcement officer who does NOT make an arrest after investigating a complaint of DV must submit a detailed written report setting forth the grounds for not arresting the parties.'

Law enforcement is clearly not following the law in these situations. However, informants were quick to defend the government as well. A police officer stated, *"the government can't do it all, the government*

*function is to provide services” but not prevent domestic violence. An informant from the Courts stated, “the government can never tell a family how to live their life – it’s just to facilitate and provide programs.” From these perspectives it appears that those responsible for the enforcement of the law understand their roles to be reactive, to provide for the perpetrator and victim after an incident has occurred.*

On the contrary, Title 47 states that the duty of the Department of Public Safety is equally proactive by establishing or making available

- (1) Programs of education and counseling for offenders who are also victims of domestic and family violence;
- (2) Programs of intervention for perpetrators convicted of domestic and family violence crimes;
- (3) Rules requiring initial training and continuing education for employees of correctional institutions concerning domestic and family violence.

An educator from AS suggests, *“there is not enough awareness and knowledge in the community in regards to the laws and how it protects the community and individuals.”* A faifeau agrees, saying that the *“government needs to improve their work and have the community aware of the services (for DV).”* ***This is a key area in which the Alliance should focus its community engagement efforts.***

The protocol for handling domestic violence cases in the AS court system is also subjective. According to a prosecutor, all arrests are presented in District Court during arraignment. *“Our focus is on intimate relationships. Our district court attorneys are trained to look for violence between people in those relationships – if it’s brother and father fighting we don’t move to DV. But once it’s identified as DV we motion in court to move it (the case) to Family, Drug & Alcohol Court, then it is handed to our DV prosecutor. Once we get there we start all the services we have –*

- (1) *Victim witness attorneys will reach out to the victims and offer information about services within the territory*
- (2) *If they need a safe place we connect them with shelters or help them move in with families*
- (3) *If they want civil protection orders we can get them in the right direction for that”*

According to a prosecutor, once DV is identified in any case the Attorney General’s office asks for a ‘no-contact order’ which is tied to the criminal case, *“and in most cases granted by the Judge which is different from where I come from where the order is automatic and not lifted until the victim as at the very least had some safety planning classes.”* Of interest is that the prosecutor admitted that the courts are focusing on intimate relationships, including ‘same gender’. Also, ***the court is “looking more for physical violence”***. The informant shared that it is *“what the court is expecting at the time”* implying that the Court’s interpretation of the law is directing the process. Again, ***services are made available after the incident has occurred (perhaps after multiple incidents) and focused solely on intimate partner violence, and children if involved.***

The Family Court Act in Samoa, established in 2014, includes a subdivision called Family Violence Court which is unique in the Pacific Region. As a division of the District Court (similar to the Family, Drug & Alcohol Court in AS), Family Violence Court was established specifically to ‘provide jurisdiction over crimes in the Family Safety Act of 2013’. Also known as the ‘DV Court’ by informants, the sole purpose of the Family Violence Court is to mediate family-based issues involving criminal acts. Domestic violence

cases involving juveniles are handled in Youth Court. A judge from Samoa states, *“we have Domestic Violence Court as a special category because it deserves to be treated differently and handled by people trained in the area of family violence – it’s got trained judges, prosecutors and probation officers.”* The Family Violence Court is presided over by three Samoan judges. In Family Court, the judges *“don’t send them (defendants) to prison but to a program so they still spend time with the family which was a good vision our Chief Justice had – to bring the ‘therapy’ into the courts”*. Matai and pastors are introduced to the court system to provide mediation and counseling to rehabilitate offenders. One judge notes the importance of the family approach in the court, which includes extended family in the healing process. Additionally, the court refers male offenders to the Men’s Advocacy Programs, and female offenders to the Tina Faufautua Program instead of prison according to informants. It appears that the focus is on helping the perpetrator; no mention was made of services provided to victims.

Like AS, judges in Samoa claim that *“no reports are given to the judge by a social worker or anybody like that. There are no reports for bail consideration. For sentencing there’s a pre-sentencing report from the probation officer – that’s the closest we get to a social worker.”* A police officer validates that statement, *“We don’t do counseling – we forward cases to court – anyone who come through us, we do not allow them to withdraw or dismiss a case, once it comes through us we put it through.”* According to a judge, normally the offender is charged in the 3<sup>rd</sup> degree which is assault without a weapon which carries a maximum 1-year sentence, similar to the PPD charge in AS.

In AS, once DV and physical violence are identified in a case, the prosecutor transfers the case to the High Court and is assigned a new court date, usually three to four weeks out during which time the Attorney General’s office gathers evidence. *“Assault of hitting and some sort of PPD”* are the two most common charges according to informants. Most often, the assault or actual act of DV is dropped in the plea offer to the perpetrator because it is a Class A misdemeanor. The prosecutor then focuses on the felony crime if evident. However, the normal result of this process is that *“the perpetrator will be sentenced to a one-year probation and completion of a 17-week batterer’s treatment program”* at the Dept. of Human and Social Services, with mandatory review hearings. Despite what the victim wants, such as retraction of her statement, the prosecutor’s office processes the case through sentencing. The informant stated that *“less than 10% of our cases are dismissed annually, and those are for lack of evidence.”*

Title 47 also provides for harsher penalties for repeat offenders. According to the prosecutors, *“if there’s history we push for jail time.”* A violation of orders for protection is a misdemeanor, however if found guilty of reoffending the penalty for the subsequent crime within five years is enhanced by one class above the class otherwise provided for that offense. For those on probation, the criminal is required to complete a ‘program of intervention’, and at the Judge’s discretion, pay restitution to the victim and up to \$2000 to a women’s shelter. However, the language specifies ‘according to ability’.

In comparison, a ‘breach of protection order’ in Samoa which involves the ‘further physical or sexual abuse of the complainant’ carries a sentence of 6-months jail term. Any breach of protection order requires immediate arrest and appearance in Court within 24-hours. However, similar to AS, *“someone can only be convicted of a DV offense if there’s some kind of physical assault”*. There are *“four bands for sentencing which guide us”* says a judge, *“they help us maintain consistency – the normal range is two to twenty years (for rape).”*

In AS, there is little available for the victims in terms of physical safety and counseling. In fact, considering the '17-week batterer's treatment program', there is more available for the perpetrator than the victim. Victims are supported primarily by non-government groups such as the Alliance. There is a woman's shelter, a Legal Aid non-profit, and charities that provide limited resources to victims. For the most part, according to law enforcement and court officers, victims are directed back to their families for shelter and financial assistance. There is no evidence of any consistent, formal training or partnership between non-profits, the government and the village leadership.

In contrast, the primary victim's advocate in Samoa - Samoa Victim Support Group (SVSG) is partially funded by the Samoan Government through the Ministry for Women. In addition to its House of Hope orphanage for children victimized by family violence, the SVSG is building a House of Dreams for young mothers who are victims of incest (Samoa Family Court, 2015). According to a judge, *"the SVSG is the only program provider for the Family Court. They actually built our Family Court and is the backbone of our Family Violence Court."* SVSG receives the majority of referrals for DV cases from the police and court. According to an advocate, as a government entity the *"Ministry of Women is not a service provider – it is tasked to promote advocacy, raise awareness, lobby for policy and legislative reforms – our mandate is to promote the advancement of women in social health and economics which is where DV comes in- the advancement of women."* It is the SVSG, who works closely with the Samoan liaison to the UN and the Ministry of Justice, who implements the majority of awareness programs in Samoa. The UN, through the UN Women program, has provided gender-based violence training and created *"the framework for the Ministry of Justice, specifically the Family Violence Court, so every quarter they can provide data on cases received, identify patterns and causes and appropriate interventions."* A new database has been established to centralize the data collection and storage of domestic violence data according to a judge. There is no comparative database in AS.

Samoa has established protections for victims who are going through the Court process. Specifically, it restricts attendees in Family Court hearings, and provides penalties for those who publish the identity of parties to any proceedings. Victims and witnesses may request to be situated behind a screen during court appearances, and victims may respond to questions in writing instead of appearing on the witness stand. The Family Safety Act explicitly states that 'no person or the media shall publish in any manner any information which might, in any way, reveal the identity of any party to Court proceedings'. There are no comparative protections in AS.

In general, the key informants from AS reveal that the handling of domestic violence issues in the territory is loosely based on Title 47 which provides a general framework for law enforcement and prosecutors. Notably, there is no specific mention of child abuse other than in reference to sexual assault (in either of the Samoa's). In Samoa, one educator mentions a 'School Operations Division' which investigates family violence cases that come to the attention of school staff. There is no mention by informants of a similar protocol in AS.

In summary, discussion with key informants from both Samoa's reveal that while the law provides an organized means of dealing with those who violate family members, it does not proactively deter DV or provide support for its victims.

1. Samoa appears to be making the most progress in terms of establishing the Family Violence Court, and incorporating treatment and rehabilitation into the court system. Samoa also

includes the fa'aSamoa by recognizing the importance of the matai and faifeau as leaders and mentors in the healing process, and validating the importance of the village council in self-governance.

2. In contrast, the courts in AS have taken a westernized stance, do not formerly cooperate or partner with advocacy agencies and village councils, and continue to foster the erroneous perception of domestic violence as physical, and limited to intimate partners.

## Conclusion

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A faifeau from Samoa perceptively described the state of the fa'aSamoa today: *“When we say fa'aSamoa, fa'aSamoa of when? Is it now? When Samoa became independent in the 60's? Or is it the time of the missionaries? We connect with our culture, but no culture stays the same, and cultures are mixed now, with technology and so forth.”* The foundation of fa'aSamoa is intensely perpetuated throughout generations of Samoans regardless of where they live. The ideals of God and family before self, the identity of self as part of a whole, while affected over time by modernization are still very much intact. At the core of this identity is one's place within the context of the family and community.

To eradicate DV in the Samoas, advocates are tasked with innovating methods within the context of the fa'aSamoa. Efforts will be unsustainable without implicating the culture in prevention, legislation, enforcement and rehabilitation.

During the past 20 years the majority of Samoa's efforts have focused on legislation and enforcement to satisfy the demands of critics in the UN. But in the last 10, Samoa has implemented several innovative practices which incorporate fa'aSamoa in prevention and control efforts. The first is enactment of the Village Fono amendment which acknowledges the Village Council in each village as legitimate government entities, and preserves their authority over village matters including maintaining peace and establishing 'sa' to deter violence. Second, the enactment of legislation establishing the Sui o le Nu'u as the direct liaison between the village committees and Ministry of Women, establishing a formal channel of communication between government and village. Third, the government has executed an agreement with the Council of Churches to open direct channels between agencies and church entities to formulate anti-domestic violence advocacy. **Leadership has engaged the pillars of Samoan society – village leadership, village community groups, and the church – to join the effort to end domestic violence from a grassroots position.**

In contrast, the AS government established Title 47 in 2004, but has made no impactful progression since. To enable evidence-based decision-making, a database comprised of DV reports, arrests, and recurrence disaggregated by sex, age, and relationship between victim and perpetrator must be established. The newly opened Sex Offender's Registry demonstrates that the government possesses the infrastructure needed to operate such a database. Additionally, a population-based study to measure the prevalence, knowledge, attitudes, beliefs of DV in the territory is needed to provide a basis for evaluation of anti-DV initiatives. In lieu of a catalyst such as pressure from the UN, perhaps validating data will provide the impetus for legislative reform in AS.

Suggestions for incorporation of fa'aSamoa in prevention include engagement of village councils, the mafutaga tina and tama, aumaga, and county coalitions. Additionally, non-government groups must work together to leverage limited resources and speak as 'one voice' sending a consistent message to

the community to destigmatize victimization by DV, raise awareness and enable individuals to speak out against it. A Help Hotline with direct referral to appropriate resources is also needed – this type of hotline has experienced success in Samoa by providing a means for anonymous reporting, and a referral channel between non-government groups and law enforcement according to the Ministry of Police.

Clearly domestic violence is a critical issue in both Samoas. A survey interviewer from Samoa tearfully testified during a townhall meeting to distribute survey findings: *“E le o ni sauaga mai fafo. O sauaga mai le loto fale. O sauga mai ia tatou.”* (Our women and children are not being violated by things from outside. They are being violated from within the family) National Family Safety Study, 2017 (Shivani, 2017). Studies such as this produce verified data that validate anecdotal evidence concerning the overwhelming prevalence of domestic violence in AS.

By aligning fa’aSamoa with innovative anti-violence advocacy, domestic violence can be eradicated.

## Final notes

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There are limitations to the analysis of the Alliance’s key informant interview project. Most important is the process of translation from Samoan to English. Interviews conducted in Samoan were transcribed to English which infers that they could be affected by biased interpretation. Also, the process of translation was not consistent, nor documented. A single Samoan translator was used, whereas having a second translator conduct a back translation or at least a second translation would have mitigated possible bias.

Secondly, a key informant interview reveals the informant’s perspective and knowledge; it does not establish fact, but sheds light on what the informant perceives the reality to be. However, with supporting literature review and analysis this evaluation goes a step further to substantiate informant responses using published facts.

Finally, the number of interviews analyzed and the background of the informants does not comprise an all-inclusive perspective of domestic violence in the Samoas. The evaluator suggests that the Alliance continue to conduct interviews as informants are identified, and integrate the results of relevant focus groups and survey data as the opportunity arises.

## Recommendations Resulting from the Assessment

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1. A single Territorial (e.g. State) Plan is needed to direct the development of coordinated policy, funding and services for Domestic Violence.
2. Funding is required to establish a dedicated Domestic Violence Unit for responding to domestic and family violence in the Territory.
3. The effectiveness of the proposed DV Unit would be maximized if all relevant human services (including non-government) commit to providing in-posted staff via rotation system, including housing, victim support, health (including drug, alcohol and mental health) and education.
4. The DV Unit can become the liaison between DPS, the Courts, and service providers to ensure coordinated responses to DV.
5. Data on domestic violence would be strengthened if data collection was mandated and intimate partner and family violence were distinguished from other forms of violence.
6. A risk assessment framework and clear inter-agency data sharing system would improve victim experience when accessing services.
7. A single cross government training framework inclusive of non-profit service providers would support the coordinated response to women applying for service at Government agencies.
8. Barriers to developing and implementing safe-houses, rehabilitation services and economic promotion for women need to be identified and removed.
9. The territorial government should work closely with village/traditional government to incorporate the fa'aSamoa and village fono in policy development for DV.
10. Legislators must review the current Code addressing domestic violence and effectively criminalize domestic violence to set the standard and priority for funding, policy, deterrence and prosecution.
11. In its role as lead Territorial advocate for DV and SA, the Alliance can advocate for strengthening the Code, establishing the DV Unit, and developing policy. As a non-service provider, the Alliance can instead build capacity in member organizations to identify service and policy gaps, provide training, and provide a public platform to support victims' voices.

**FIGURE 1.A**

DATE	LEGISLATIVE TITLE	DESCRIPTION
1990	Ministry of Women Affairs Act	Establishes the Ministry of Women
1991	Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)	The IMPETUS for the paradigm shift in Samoa's focus on and commitment to Domestic Violence; provides a 'Human Rights Framework' based on GENDER EQUALITY
1998	Ministry of Women's Affairs Amendment Act	Established the Ministry of Women, Community & Social Development (MWCSO); houses division to act as focal point of CEDAW to work with NGOs; estb. 'Natl. Day for Fathers' 2005; estb. 'GBV Steering Committee' to oversee GBV Project (2006)
2008	Community Justice Act	Operates 'community-based justice system' in villages
2009	Ministry of Women Affairs (Sui Tamaitai o le Nu'u) Amendment Act 2009	Estb. Sui Tamaitai for each "traditional" village; Village Womens' Committee accepts nominations, Village Council ratifies, sends to MWCSO who forwards to Cabinet for appt. to 3-yr. term
2009	*Crimes Ordinance 1961 Act	UPDATED per UN to incl penalties for DVSA <i>but can't find document online</i>
2010	Divorce & Matrimonial Causes Amendment Act 2010	Grounds for Divorce' incl that 'a party to the marriage is the subject of DV'; 'Restraining Orders' inc DV in ALL forms & specifically says 'primary consideration' is given to 'protect from domestic violence' irrespective of marital status; makes violation of Restraining Order a punishable 'offense'; Restraining Order by Court = 2+ years; by Registrar = 7 days
2013	Family Safety Act 2013	"provides greater protection of families and the handling of DV and related matters"; defines DV in all of its forms; "relationship:" incl 'engagement'
		Anyone can file a 'Complaint' through the Registrar to the Court which must be acted on "without undue delay" to get Protection Order (not be duplicated with Restraining Order if already in place)
		Court can issue immediate "interim Protection Order"
		Provides PROTECTION for witness/complainant in Court
		Provides Police Escort for complainant to get belongings
		Breach of PO = immediate arrest & up to 6 mos. Prison
		May incl sanctions under Community Justice Act from Village Council
		Restricts who can be in Court, protects identities and restricts media
		States 'Any Police Officer who received DV complaint shall render assistance without discrimination' BUT if PO deems it not physical/sexual may REFER to agency for counseling instead

DATE	LEGISLATIVE TITLE	DESCRIPTION
		*provides SENTENCING = any violation of ACT can produce fine of max. 20 penalty units and/or 2 yrs. Jail
2013	Constitution Amendment Act	provides for 10% MIN # of Women Members of Parliament; no penalties
2013	Crimes Act 2013	Repeals the Crimes Ordinance 1961 and amends other Acts (Abortion = crime)
		All classes of assault, threatening and harassment refer to 'ANY Person' irrespective of relationship
		**No person can be convicted of 'Sexual Conduct w/a young person under 16' IF person was MARRIED to the young person (age 12-15)
2014	Family Court Act 2014	Estb Family Court as a Division of District Court
		Prior to hearing parties "MUST ENGAGE in some form of alternative dispute' to the satisfaction of the Court
		Restricts attendance at hearings and public proceedings
		Registrar may coordinate counseling and related services
2017	Village Fono Amendment Act	provides for recognition and protection of Village Fono provides official role for Sui o le Nu'u
		incl 'promotion of social cohesion & harmony' which could incl DV

**FIGURE 1.B**

<b>DATE</b>	<b>Initiative</b>	<b>DESCRIPTION</b>
2005-present	National Father's Day'	national holiday created by Ministry of Women to engage men in dialogue about DV
2000, 2006	Samoa Family Health Study	funded by SPC, UNFPA; modeled after the 'Pacific Multi-Site Study of the Effects of Violence Against Women on Family Health & Safety'; qualitative study using KI interviews and focus group plus survey for women and men
2006	Gender Based Violence Project (GBVP)	funded by UNFPA and NZ Aid for Intl. Development - translates recommendation of UNFPA into action
2008	Natl. Plan of Action for the Advancement of Women (2008-2012)	written by Min. of Women, endorsed by Parliament - focused on GBV and the advancement of women with policies to include violence against women in national advocacy, education, awareness, law reform and enforcement
2009	Natl. Policy for Women of Samoa	a national strategy to strengthen inter-agency collaboration and achieve a zero-tolerance environment
2013	Creation of the Ombudsman	a statutory officer appointed by Parliament, independent of government, but housed under the Samoa Law & Justice Sector; May 2013 became the Samoa Natl. Human Rights Institution meeting the UN requirement
2013	24-Hour Helpline	established by the SVSG with support from BlueSky & Digicel with a 2-year sponsorship from the UN Women Pacific Regional Ending Violence Against Women Facility Fund
2013-present	16 Days of Activism'	26-year old global awareness campaign - activated in Samoa by Min. of Women within villages
	UNITE Campaign	UN Secretary General's campaign to end violence against women - adopted in Samoa as 'Orange Days' every 25th of the month as an awareness event coordinated by MWCSA, Australia and UN Women
	Safe Man - Safe Family	Samoa Returnees Charitable Trust (SRCT) pioneering regional project to address reintegration of criminal deportees or returnees from NZ, Aus., U.S., launched Safe Man Safe Family pilot of counseling workshops to encourage commitment to counseling and to create awareness of unacceptable behaviors (innovative initiative)
	Mau Database	Creation of database under the Law and Justice Ministry to collect data from Min. of Police and Min. of Justice (courts)

<b>DATE</b>	<b>Initiative</b>	<b>DESCRIPTION</b>
	Domestic Violence Unit	Min. of Police establishes unit through the Pacific Protection of DV (PPDV) Regional Program funded by NZ which also provides training to cops
	Towards a Legacy of Achievement'	TALAVOU – 5-year program under Min. of women joint with UN
	Interagency Response System	Min. of Women's initiative to improve coordination and quality of service for DV victims - TA and funding from NZ Air for Intl. Dev. Pacific Prevention of DV Project
2015	Samoa Women Shaping Development Program	Min. of Women - various village-based programs to increase revenue generating activities, awareness and advocacy against DV
	24-Hour Complaint Line	Min. of Police Domestic Violence Unit - all complaints followed by unit cops, referred to Court Registrar
	SVSG House of Hope	Orphanage for children victims funded by govt. and UN
2017	Natl. Council of Churches	Initiative following 2017 national study - MOU between govt. and National Council - asking ministers to prioritize messages to members that DV is wrong; reinterpret Bible correctly
2017	Min. of Women	Ministry to redirect efforts towards working with Village Councils to punish DV in the village fono

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