



WOMEN AND CHILDREN'S ACCESS TO THE FORMAL JUSTICE SYSTEM IN VANUATU



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UN WOMEN
May 2016



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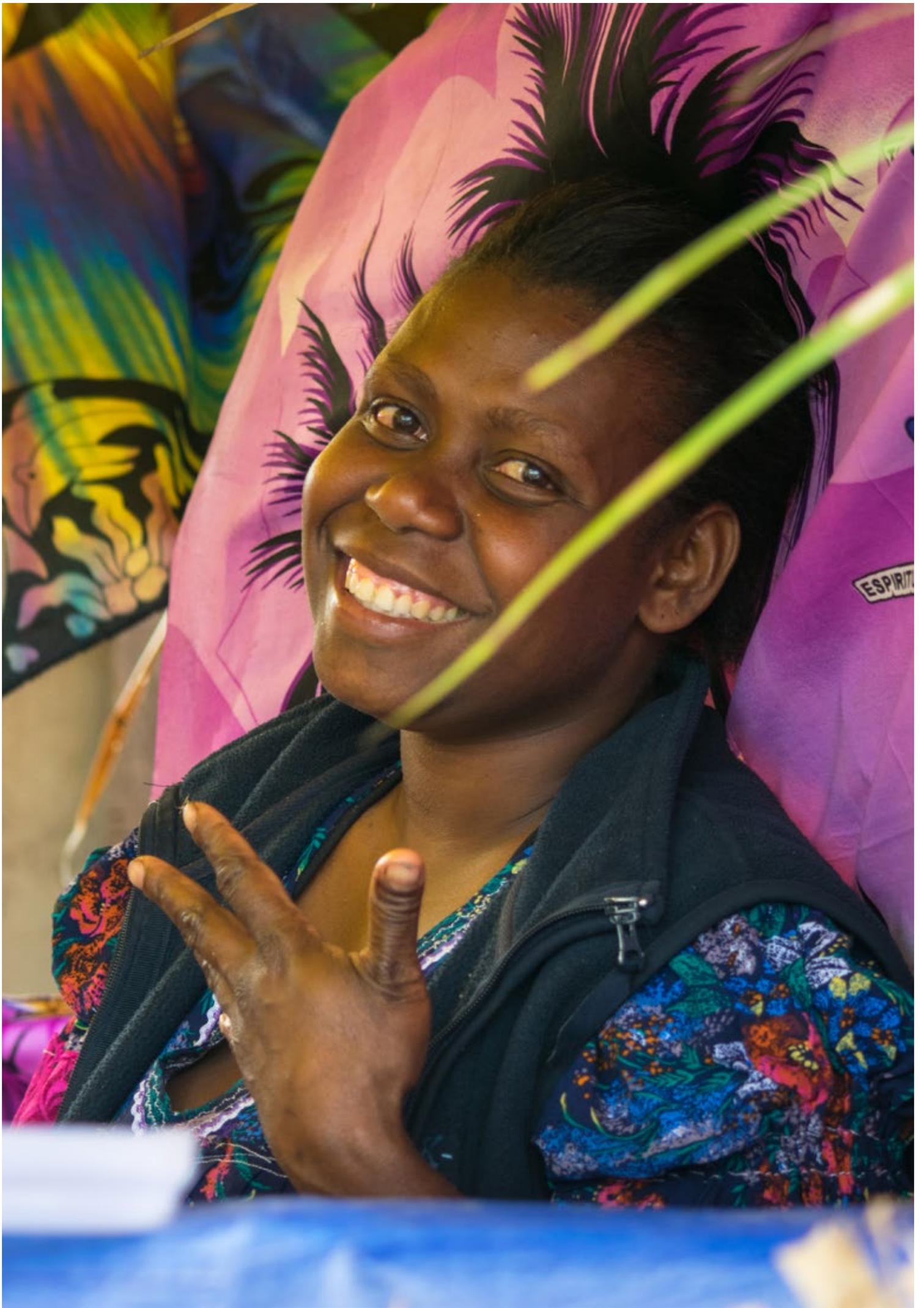
The completion of this report was assisted by data and information provided by the following Vanuatu formal justice sector agencies, civil society and disabled persons organisations. The Research Team would like to thank everyone who has supported this research project by providing information and data.

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Vanuatu Police Force	John Taleo, Former Acting Police Commissioner
Vanuatu Office of the Public Prosecutor	Josaia Naigulevu, Public Prosecutor
Ministry of Justice and Community Services	Mark Bebe, Director-General
Department of Women’s Affairs	Dorosday Kenneth Watson, Director
Vanuatu Women’s Centre	Merilyn Tahī, Coordinator
Other Organisations	<ul style="list-style-type: none">• Australian High Commission• Medical Superintendent, Northern District Hospital, Luganville• National Coordinator, Disability Promotion and Advocacy Association (DPA)• New Zealand High Commission• New Zealand Pacific Prevention of Domestic Violence Programme (PPDVP)• Policing and Justice Support Program• Sanma Frangipane• Sanma Provincial Disability Officer• Save the Children• UNICEF• University of the South Pacific Community Legal Information Centre• Vanuatu-Australia Police Programme• Vanuatu National Statistics Office

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12 KEY FINDINGS

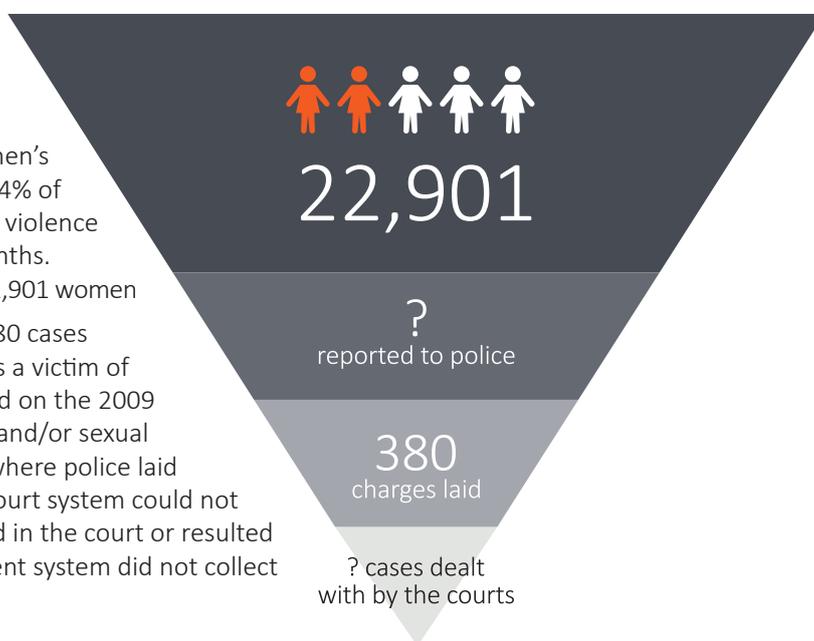
The Government of Vanuatu has signalled its commitment to protecting the rights of women and children set out in the Constitution of Vanuatu and the international human rights treaties that it has ratified, yet these rights are not currently being promoted and protected in practice.

Vanuatu has alarmingly high rates of violence against women by husbands/partners as reported in the Vanuatu National Survey on Women’s Lives and Family Relationships undertaken in 2009 by the Vanuatu Women’s Centre in partnership with the Vanuatu National Statistics Office:

- > “60% of women in a relationship experienced physical and/or sexual violence by their husband/partner in their lifetime, and 44% suffered from either or both of these forms of violence in the last 12 months.”
- > “The prevalence of sexual violence against girls under the age of 15 is one of the very highest in the world. Almost 1 in 3 women (30%) were sexually abused before the age of 15 years.”

1 98% of women and children experiencing violence in Vanuatu do not access the formal justice system

- > The 2009 Vanuatu National Survey on Women’s Lives and Family Relationships found that 44% of women experienced physical and/or sexual violence by their husband/partner in the last 12 months. Based on the 2009 Census, this equates to 22,901 women
- > During 2012–2014, police laid charges in 380 cases (on average) in which a woman or child was a victim of sexual and/or other physical violence. Based on the 2009 survey of women who experience physical and/or sexual violence, this equates to only 2% of cases where police laid charges. During 2012–2014, the Vanuatu court system could not identify how many of these cases were filed in the court or resulted in a judicial decision as the case management system did not collect gender disaggregated data



2 92% of women and children who access the Magistrates Court are assisted by Vanuatu Women’s Centre or the Family Protection Unit of the Vanuatu Police Force



3 Women and children’s access to the formal justice system is highly contingent upon support from the Australian Government aid programme

- > 100% of the budget of the Vanuatu Women’s Centre and 36% of the operational budget of the Vanuatu Police Force (including the Family Protection Unit) is supported by the Australian aid programme



4 Without financial and other support from the Vanuatu Women’s Centre, women and children will not be able to access the formal justice system

- > 44% of the Port Vila population and 50% of the Luganville population are considered as very vulnerable or vulnerable to poverty
- > Court fees, transport and/or medical costs involved in violence and family law cases are too high and affect women and children’s ability to access the formal justice system



5 The lack of an adequate and available budget for the Vanuatu Police Force limits their ability to investigate, arrest, summon, serve and enforce orders in cases of violence against women and children



6 Women and children with a disability are not visible in the formal justice sector

- > There is no clear disability inclusive strategy to assist women and children with a disability to access the formal justice system in Vanuatu
- > There is no disability disaggregated data collected or published by any justice sector agency in Vanuatu



7 There is a lack of a coordinated response from formal justice sector agencies, medical and counselling services for children experiencing violence



8 Whether a woman or child lives in a rural or urban area affects their ability to access the formal justice system

75% of the population lives in rural areas, yet only:

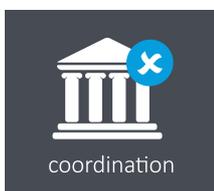
- > 8% of violence cases (on average during 2013–2015) were decided in the Magistrates Court in rural areas outside Port Vila or Luganville
- > 23% of criminal cases (on average during 2013–2015) were decided in the Supreme Court in rural areas outside Port Vila or Luganville
- > 3% of adoption and 4% of matrimonial cases (on average 2013–2015) were decided in the Supreme Court in rural areas outside Port Vila and Luganville



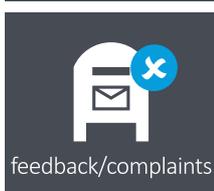
9 Women and children on islands without a Magistrates Court can face considerable delay in having their case heard

The lack of an adequate budget affects the number of circuit courts implemented annually by each of the Supreme Court, Magistrates Court and Island Courts.

- > In 2016, the planned circuit court budget is allocated between the court jurisdictions as follows: 20% to the Magistrates Court, 33% to the Island Courts and 47% to the Supreme Court. This is despite the fact that of all jurisdictions, the Magistrates Court hears the majority of violence cases involving women and children. In 2015, the Magistrates Court received 8.5% of the circuit court budget

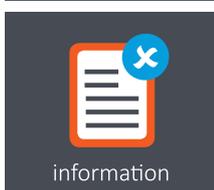


10 Poor circuit court coordination wastes government human and financial resources



11 There is a lack of client feedback and complaint mechanisms for the formal justice system agencies on the quality of services provided to women and children

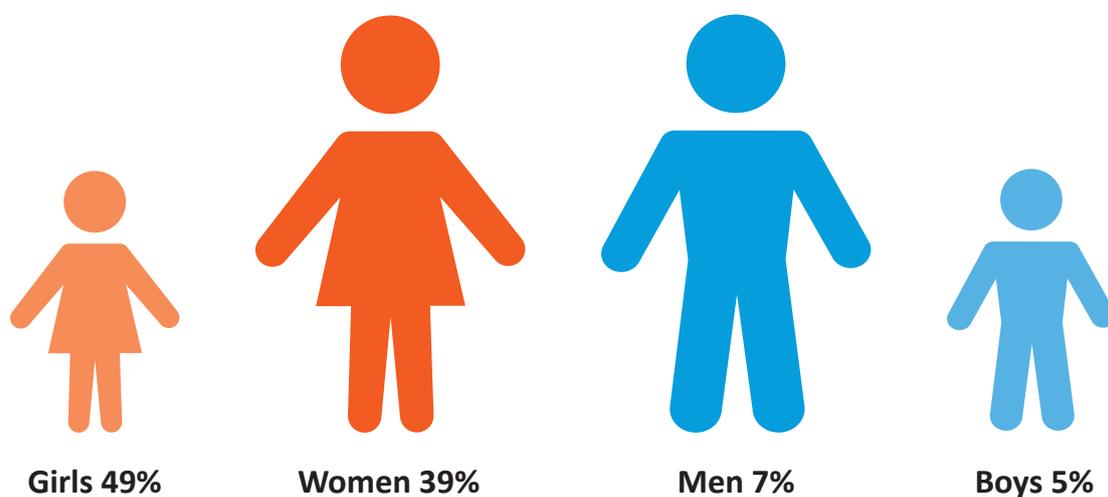
- > there are no court user surveys, regular court-stakeholder discussions or other mechanisms to review public satisfaction with the quality of justice services or to identify systemic weaknesses in the sector with a view to remedying them



12 There is a lack of clear and consistent information on the fundamental rights of women and children, the laws that protect them and how they can access the formal justice system for family law or violence cases

PREVALENCE OF SEXUAL VIOLENCE AGAINST WOMEN AND GIRLS IN VANUATU

Sexual violence by gender of victim N = 310 (2012–15)



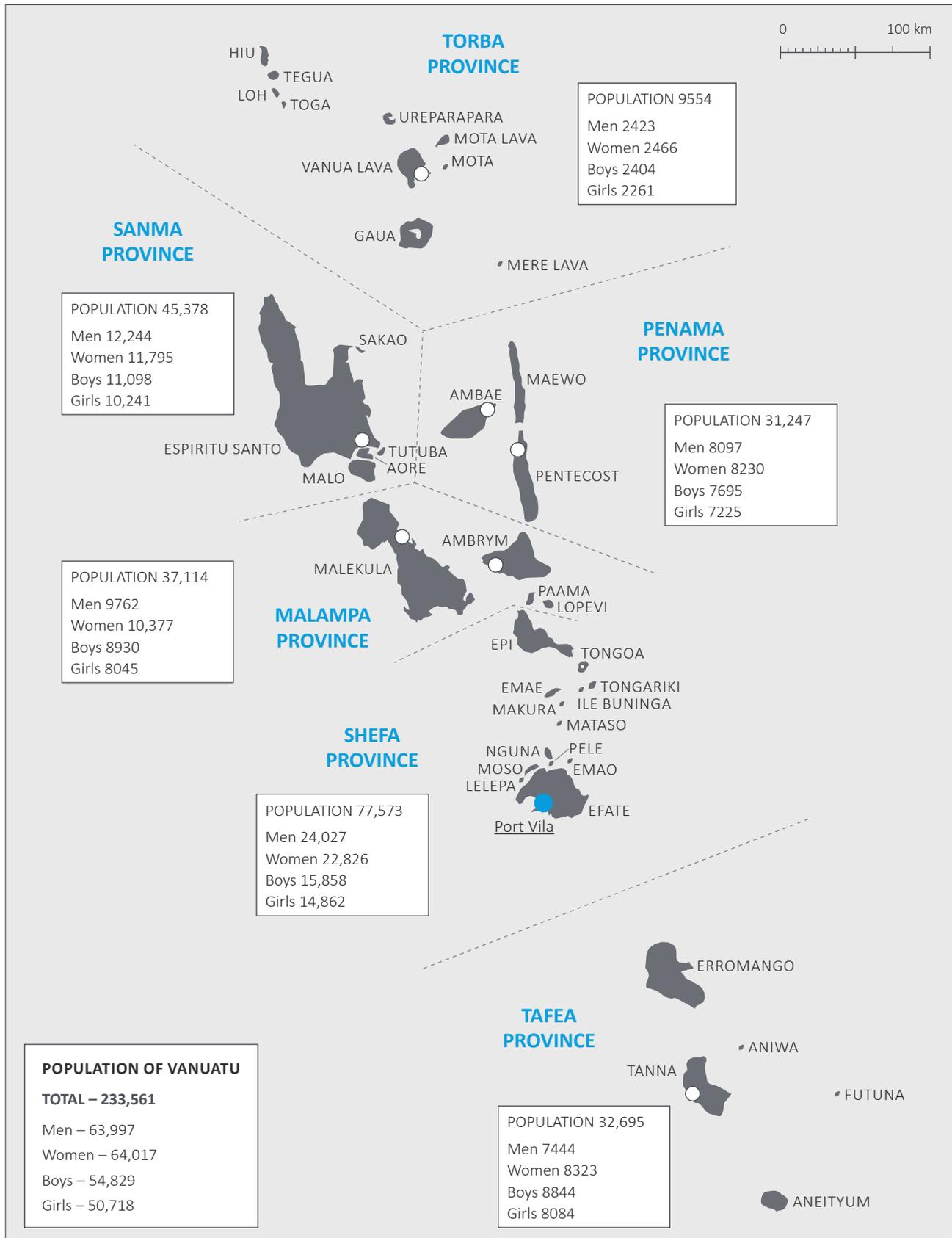
Female Perpetrator – 7%, Male Perpetrator – 93%

93% of sexual violence involves male perpetrators. Girls (49%) and women (39%) are the overwhelming victims of sexual violence in Vanuatu.

Photo credit, next page: UN Women/Murray Lloyd



POPULATION OF VANUATU



QUICK FACTS VANUATU¹

LAND MASS

12,281.25 KILOMETRES SQUARE
83 ISLANDS
(65 OF WHICH ARE INHABITED)

GDP

PER CAPITA 2015 USD 2,872.1³



HUMAN DEVELOPMENT INDEX RANK (2014)

134 OF 188 COUNTRIES

PEOPLE LIVING WITH A DISABILITY



5%

POPULATION²

233,561

ADULTS

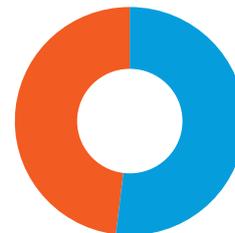
128,014 OR 55%

CHILDREN UNDER 18 YEARS

105,547 OR 45%



48%



52%

FEMALE POPULATION 48%

MALE POPULATION 52%

POPULATION LIVING IN

RURAL AREAS 75%



POPULATION LIVING IN PORT VILA

19% OF THE POPULATION

POPULATION LIVING IN LUGANVILLE

6% OF THE POPULATION

POVERTY HEADCOUNT RATIO

12.7%

1 Source: 2009 Census unless otherwise referenced.

2 Vanuatu's population measured 249,853 at the time of the 2010 Household Income and Economic Survey.

3 <http://dfat.gov.au/trade/resources/Documents/vanu.pdf>

Women comprise 48% of the population but are:

Gender Balance in the Parliament, Judiciary, Police, Public Solicitors and Prosecution Services

Agency	Male	Female	Total
Parliament	52 (100%)	0	52
Supreme Court: Justices and Master	6 (75%)	2 (25%)	8
Magistrates Court: Magistrates	4 (50%)	4 (50%)	8
Island Court Justices	112 (83%)	23 (17%)	135
Vanuatu Police Force ⁴	595 (87%)	91 (13%)	686
Family Protection Unit Police Officers ⁵	7 (50%)	7 (50%)	14
Department of the State Prosecutor	11 (100%)	0	11
Office of the Public Prosecutor: Prosecutors	4 (57%)	3 (43%)	7
Office of the Public Solicitor: Lawyers	8 (73%)	3 (27%)	11

Legislative framework

<i>Family Protection Act 2008</i>	<ul style="list-style-type: none"> Family Protection Orders (“family violence” is defined to include emotional violence and controlling behaviour; “family” is defined to include extended family members). Domestic Violence Criminal Offence punishable by up to 5 years in gaol.
Penal Code	<ul style="list-style-type: none"> Offences against the Person (e.g., assault, homicide). Offences against Morality (E.g., rape, sexual offences against children).
Matrimonial Causes Act	<ul style="list-style-type: none"> Fault divorce. Child custody. Alimony and child maintenance.
Maintenance of Family Act	<ul style="list-style-type: none"> Criminal offence: <ul style="list-style-type: none"> A man fails to provide for his wife and “legitimate” children; A mother deserts her children for more than 1 month; Punishable by up to 3 months imprisonment or VT 20,000 fine.
Maintenance of Children Act	<ul style="list-style-type: none"> Unmarried women over the age of 21 years can seek an order for child maintenance for children. Parents/guardians of unmarried women under the age of 21 years can apply on her behalf. Breach of a child maintenance order is a criminal offence.

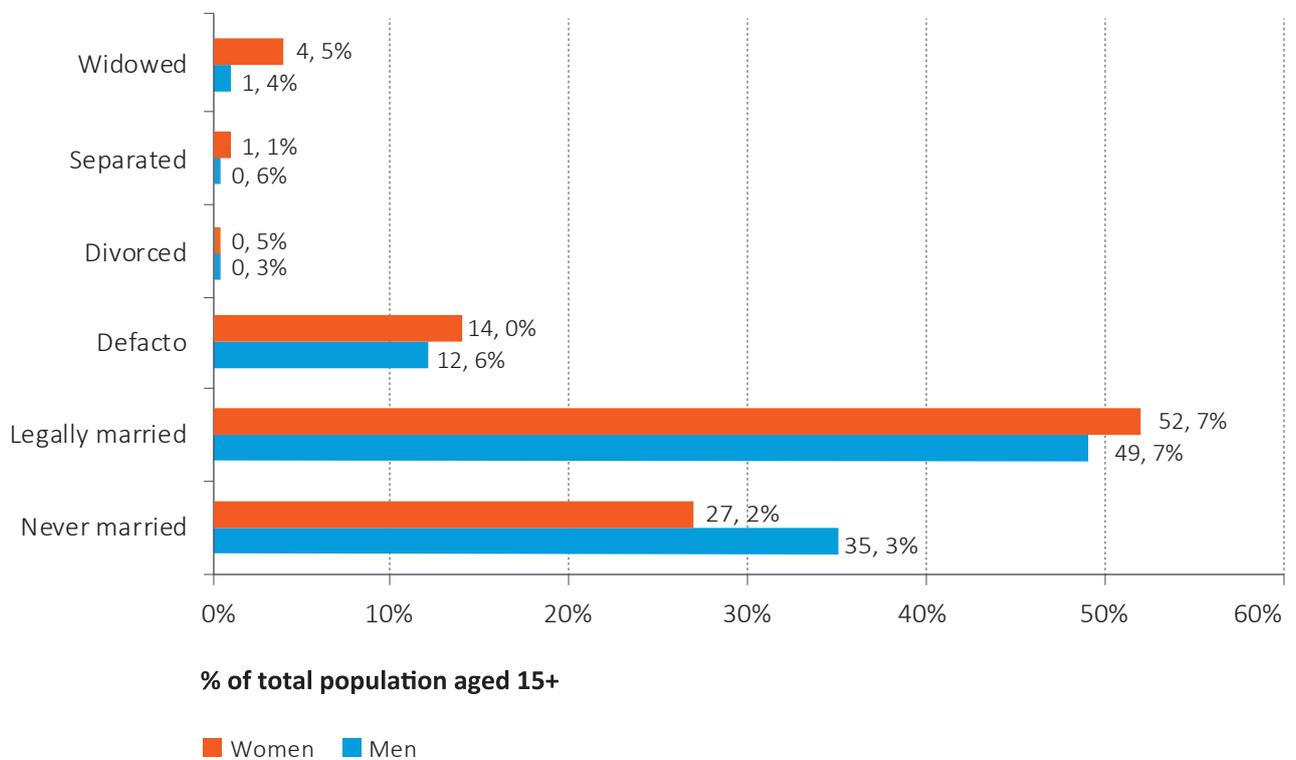
⁴ 2014 Annual Report of the Vanuatu Police Force p12.

⁵ As of 1 January 2016.



Photo credit: Cate Sumner

Marital status of people aged 15 and above, by sex, as % of total population, Vanuatu, 2009





EXECUTIVE SUMMARY

In 2009, the Vanuatu Women's Centre (VWC) in partnership with the Vanuatu National Statistics Office (VNSO) completed the first Vanuatu National Survey on Women's Lives and Family Relationships.

This survey found alarmingly high rates of violence against women and girls in Vanuatu:

- 60% of women in a relationship experienced physical and/or sexual violence by their husband/partner in their lifetime, and 44% suffered from either or both of these forms of violence in the previous 12 months.
- The prevalence of sexual violence against girls under the age of 15 is one of the very highest in the world. Almost 1 in 3 women (30%) said they had been sexually abused before the age of 15 years.

Seven years after this ground breaking study, UN Women commissioned research into *Women and Children's Access to the Formal Justice System in Vanuatu*.

This Report analyses why an estimated 98% of cases of violence against women and children do not reach the stage of being charged by the police, let alone prosecuted by the courts.⁶ Why the recent death of the woman referred to in the case study that follows, is not an isolated incident.

The Report opens by summarising 12 Key Findings on why women and children's access to the formal justice system in Vanuatu is so low and makes some recommendations on how this situation might be improved. The findings align with the views of most justice sector actors and civil society representatives interviewed for this Report. The recommendations indicate probable timeframes for implementation: (i) immediately, (ii) under twelve months, and (iii) over a longer time frame.

Part One

of the Report outlines the methodology and timeframe followed in conducting the research.

Part Two

analyses certain socio-demographic indicators for women and children in Vanuatu and the implications these have for their access to the formal justice system.

Part Three

analyses case data from the police, prosecution, courts and the VWC over the past 3–5 years and presents a picture of the 2% of violence and matrimonial cases that are dealt with by the formal justice system. This section also makes recommendations on improving the quality of (i) data captured by formal justice sector agencies, and (ii) public reporting on violence against women and children by formal justice sector agencies in their Annual Reports.

Part Four

of the Report gives an overview of the barriers women and children face in accessing the formal justice system and how these may be addressed. This Part is based on structured interviews with judicial officers, police officers, the prosecution service, state lawyers, as well as counsellors and program officers of the VWC.

Part Five

presents existing budget and human resources allocated to formal justice sector agencies. It shows the impact of inadequate resourcing of the sector on access to justice for women and children.

Part Six

addresses disability inclusion issues for women and children's access to the formal justice system.

⁶ See Part Three of the Report for an explanation of these statistics.

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Recommendations on women and children's access to justice in family law and family violence cases made by civil society, UN treaty bodies, donors and International NGOs in earlier reports are included in the Annex to this Report. Since 2009 there have been a number of significant studies that have addressed the barriers facing women and children in accessing the formal justice system in Vanuatu conducted by: the Vanuatu Women's Centre and Vanuatu National Statistics Office (2009), UNICEF (2009), *Stretem Rod Blong Jastis* (2013) and the Pacific Judicial Development Programme (2013). Also, in March 2016, the Committee for the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) issued its Concluding Observations on Vanuatu's latest periodic report on CEDAW. There have also been several important reports on violence against women and children with disabilities in the Pacific region, notably by UNDP in 2009 and UNFPA in 2013.



Informal justice approaches conducted by chiefs, church leaders or others were outside the scope of this research. However, interviews across the sector and with civil society organisations showed that a lack of accessible formal justice mechanisms, combined with cultural and religious beliefs, leads to most women and children, whether by choice or circumstance, depending on informal justice in family law and violence cases. Research into informal dispute resolution in Vanuatu is being conducted by the *Stretem Rod Blong Jastis* project funded by the Australian Government aid programme. The findings from that research will be an important complement to the findings in this Report.

All formal justice sector actors interviewed for this research are aware of the high rates of family violence in Vanuatu and the need to improve the sector's ability to respond to this level of criminal violence. This research acknowledges the efforts being made by the formal justice sector, donors and civil society to address the high rates of violence and improve women and children's access to the formal justice system.

In recent years, the Vanuatu Government and the justice sector agencies have taken some significant legislative and other steps to address the large-scale problem of violence against Vanuatu's women and children. The *Family Protection Act* entered into force in 2009, and the police established the Family Protection Unit, dedicated to investigating family

violence. The police have also issued policies and standard operating procedures to protect women and children experiencing violence by specifying how police should investigate domestic violence offences. It is clear, however, that these steps are not enough.

It is hoped that as a result of this UN Women Report, Vanuatu's political leaders, heads of formal justice sector agencies as well as civil society leaders, will:

- Make ending all forms of violence against women and children in Vanuatu a national priority;
- Increase the Government of Vanuatu budget allocation to the justice sector, as well as to counselling, legal advisory and health services to ensure that all women and children victims of violence, wherever they live in Vanuatu, can access the formal justice system; and
- Ensure all perpetrators of violence against women and children are held accountable for their actions in fair trials before the formal justice system.

Photo credits, above: Leisha Lister;
next page: UN Women/Nicky Kuautonga



VIOLENCE AGAINST WOMEN AND ACCESS TO JUSTICE IN VANUATU

Case Studies from Port Vila and the Banks Islands

On 7 January 2016, a woman died after being admitted to the Port Vila hospital with injuries arising from a suspected domestic violence incident.



Photo credit: Leisha Lister

On Saturday 9 January, the Vanuatu Post ran a front-page story under the headline: *Alleged domestic violence behind mother's death.*⁷ In the same edition of the Vanuatu Post,⁸ the Director General of the Ministry of Justice and Community Services remarked:

"Unfortunately, this incident is not isolated. Violence is a major issue that women and families from all over Vanuatu face. Most women who are subjected to violence by husbands/partners experience multiple forms of violence. Violence from husbands/partners occurs in all provinces and islands, and among all age groups, education levels, socio-economic groups and religions.

...This is an issue that goes against everything the Ministry of Justice and Community Services stands for, and something that we as a society need to change. When I say 'society', I mean every single one of us. The law and justice sector, chiefs, faith-based organisations, civil society organisations, teachers and all men and women."

Concerned to make sure that this death was properly investigated, the Vanuatu Women's Centre wrote to the Vanuatu Police Force on 11 January referring to the 2015 Vanuatu Police Force's Family Violence Policy (Part 4) which places a high priority on effective policing and investigation of Family/Domestic Violence cases and specifically referred to Part 3 of the Vanuatu Police Force Standard Operating Procedures: Family Violence Prevention and Response:

⁷ Vanuatu Daily Post, 9 January 2016, p1, Alleged domestic violence behind mother's death by Jonas Cullwick.

⁸ Vanuatu Daily Post, 9 January 2016, p3, Violence against women must be eradicated by Mark Bebe, Director General of the Ministry of Justice and Community Services.

IF A POLICE OFFICER HAS REASONABLE GROUNDS TO BELIEVE THAT A PERSON HAS COMMITTED A DOMESTIC VIOLENCE OFFENCE OR HAS BREACHED THE CONDITIONS OF A FAMILY PROTECTION ORDER, THE OFFICER MUST INVESTIGATE THE ALLEGATION.’

The Vanuatu Women’s Centre (VWC) in partnership with the Vanuatu National Statistics Office (VNSO) completed the first Vanuatu National Survey on Women’s Lives and Family Relationships in 2009 and these important findings on the devastating effect of high levels of violence against women and children are now informing family violence policies across Vanuatu. Formal justice sector agencies in Vanuatu have since taken important steps toward responding to this level of criminal violence with the 2008 Family Protection Act and the Family Violence Policy and Standard Operating Procedures issued by the Vanuatu Police Force in 2015.

Nonetheless, as this case study shows, there are still significant gaps in the investigation and prosecution of perpetrators of family violence. This case presents an opportunity for all justice sector actors, as well as the medical and coronial services, to examine whether Vanuatu’s laws and procedures could be strengthened when a person has “died under circumstances raising a reasonable suspicion that somebody has committed an offence” under the Family Violence Standard Operating Procedures and the Criminal Procedure Code provisions (Articles 224–225).

Part Four of this Report contains a second case study outlining the successful prosecution and conviction in March 2016 in the Banks Islands of a father found guilty by the Supreme Court of Vanuatu of the rape of his daughter.⁹ The Case Study in Part Four demonstrates the difficulties facing women in accessing the formal justice system in Vanuatu and the powerful impact that follows if access to the formal justice system is made possible through:

- Women and children knowing where to obtain information and advice about the formal justice process and how to access it. In this case, it was through the local CAVAW member.
- Chiefs and community leaders understanding the law and supporting victims to access the formal justice system,
- Financial support being provided, in this case through the Vanuatu Women’s Centre,
- Free counselling, support and legal representation being available, again through the Vanuatu Women’s Centre,
- Police conducting thorough and prompt investigations,
- Complainants being willing to testify, and
- Courts being willing and able to fund unplanned hearings in remote locations without undue delay.



Vanuatu Women’s Centre, Port Vila. Photo credit: Indira Rosenthal

9 *PP v Weleghabit*, [2016] VUSC 19; CR 111 of 2014 (10 March 2016).

KEY FINDINGS AND RECOMMENDATIONS

A COSTS OF ACCESSING THE FORMAL JUSTICE SYSTEM

KEY FINDINGS

Key Finding 1

One in five people living in urban areas in Vanuatu lives below the Vanuatu Basic Needs Poverty Line (BNPL).

Key Finding 2

44% of the Port Vila population and 50% of the Luganville population are considered as very vulnerable or vulnerable to poverty.

Key Finding 3

In Port Vila, nearly a quarter of people living with a disability live under the BNPL (23.3%)

Key Finding 4

Women bring most matrimonial, adoption, child maintenance and other family law civil cases and must pay the court filing fees in these civil cases. Island Court fees are VT 1000, which is more than half (52%) the weekly per capita expenditure of an adult whose income was in the lowest three deciles (VT 1933). The Magistrates Court fee of VT 8000 is four times the weekly per capita adult expenditure, while the Supreme Court fee of VT 20 000 is more than ten times the weekly per capita adult expenditure.

Key Finding 5

The VWC pays for the court filing fees and other costs of accessing the formal justice system for many women and children. Without financial and other support from VWC, women and children will not be able to access the formal justice system as the court filing fees, transport and/or medical costs involved are too high.

Key Finding 6

There is no clear procedure for the waiver of court fees in family law cases where the applicant faces financial hardship.

RECOMMENDATIONS

■ Recommendation 1

With close to half of the urban population in Vanuatu living below the Basic Needs Poverty Line or considered vulnerable to poverty, the Government of Vanuatu consider abolishing court fees for all family law applications, including enforcement, under the Maintenance of Children Act and Matrimonial Causes Act.

● Recommendation 2

Courts should make a clear policy for waiving court fees for those cases of financial hardship (until abolished by Government of Vanuatu). Clear information on fees and fee waivers should be publicly displayed in all justice sector facilities.

■ Recommendation 3

Hospitals and health clinics abolish medical report fees [or fees for treatment] in cases where women or children have experienced sexual and/or other physical violence.

● Recommendation 4

The courts should include in the Annual Report data on the number and type of cases in which fees are waived as well as the gender of applicants.

● Can be implemented quickly ■ Can be implemented within 12 months ◆ Can be implemented in a timeframe longer than 12 months

B THE FORMAL JUSTICE SYSTEM IS INACCESSIBLE TO MANY WOMEN AND CHILDREN IN RURAL AREAS

KEY FINDINGS

Key Finding 1

In Vanuatu, 75% of the population lives in rural areas outside Port Vila and Luganville. Women and children living in rural areas have less access to the formal justice system.

Key Finding 2

The Magistrates Court hears the majority of cases involving women and children (e.g., Family Protection Orders, enforcement of child maintenance, family violence). There are Magistrates Courts in only four Provinces and they do not circuit to other locations to hear cases frequently enough. In 2015, the Magistrates Courts only conducted 11 of the 24 scheduled circuit courts and received only 8.5% of the total 2015 circuit court budget.

Key Finding 3

The measures in the Family Protection Act aimed at assisting women who cannot physically access a Magistrates Court are not being used. The facility for making oral applications for protection orders under section 28 is very rarely used.

Key Finding 4

The FPA provides that it should be independently reviewed after 3 years of operation (section 52). The review was due in 2012 but has not yet begun.

RECOMMENDATIONS

● Recommendation 1

The Supreme Court should increase the proportion of the budget for circuit courts that is directed toward enabling the Magistrates Courts to hold the 23 circuit courts published in the 2016 judicial calendar of events from the 8.5% received in 2015.

● Recommendation 2

Courts to use existing video conferencing facilities in the courts in Port Vila and Luganville and in all provincial government offices to hear family protection and matrimonial cases, and to ensure that Family Protection Orders are made within the statutory time limits.

● Recommendation 3

Court to implement guidelines for Section 28 of the Family Protection Act (2008) to clarify the process for phone applications made directly to the court and, if necessary, seek additional budget funds to provide independent legal advisory services at all courts to assist clients to complete an application form.

◆ Recommendation 4

Review the Family Protection Act to highlight those areas in which the Act is working well and those aspects that are not effective, and identify ways to strengthen the Act.

C LACK OF ADEQUATE OPERATIONAL BUDGET FOR THE VANUATU POLICE

KEY FINDINGS

Key Finding 1

The Vanuatu Police Force operational budget has been declining over the past four years (2012–2015) and currently represents just 6% of the overall police budget.

Key finding 2

The VPF does not have the operational funds required for officers to travel outside the vicinity of their station to carry out core duties. The lack of funds limits their ability to investigate sexual and family violence offences, arrest suspects and serve summonses and court orders, including family protection and maintenance orders. This has serious consequences for women and children's access to justice for violence committed against them, for their safety and for the rule of law in Vanuatu.

RECOMMENDATION

◆ Recommendation 1

Government of Vanuatu increase the operational budget of the VPF so that police across Vanuatu have the capacity to investigate, arrest, summon, and serve orders in cases of violence against women and children.

● Can be implemented quickly ■ Can be implemented within 12 months ◆ Can be implemented in a timeframe longer than 12 months

D IMPROVE THE QUALITY OF FORMAL JUSTICE: PROFESSIONAL STANDARDS, BEST PRACTICES, PROFESSIONAL DEVELOPMENT AND FEEDBACK MECHANISMS

KEY FINDINGS

Key Finding 1

Women and children may experience poor quality justice services due to a lack of training, gender sensitization and non-compliance with existing policies, protocols and laws by formal justice sector agencies. Gaps in policies and protocols also act as barriers to women’s access to justice.

Key Finding 2

Some Family Protection Units of the VPF use “roundtables” to try to “resolve” the conflict between parties in a domestic violence case rather than opening an investigation and charging and arresting the suspect.

Key Finding 3

The use of judicial proceedings in Magistrates Courts for “counselling” of parties in cases of domestic violence potentially exposes victims, usually women, to further violence. It can also reinforce discriminatory attitudes and compromise the impartiality of judicial officers.

Key Finding 4

Inappropriately low sentences that do not reflect the seriousness of the crime or the gravity of the harm suffered by women promote a culture of impunity. They also undermine women’s trust in the ability of the formal justice system to deliver impartial and effective justice and to protect them from violence.

Key Finding 5

There is a lack of client feedback and complaint mechanisms for the formal justice system agencies on the quality of services provided to women and children. There are no court user surveys, regular court-stakeholder discussions or other mechanisms to review public satisfaction with the quality of justice services or to identify systemic weaknesses in the sector with a view to remedying them.

RECOMMENDATIONS

● **Recommendation 1**

Vanuatu Police Force (through Commander North and Commander South) fully implement the 2015 Family Violence Policy and Standard Operating Procedures and ensure they are followed in every case.

■ **Recommendation 2**

The VPF, as a matter of urgency, and in consultation with the VWC, should review the practice of roundtables in family violence cases for consistency with the VPF Policy and SOP on family violence.

● **Recommendation 3**

Supreme Court, in consultation with the VWC, conduct a review of the practice of “counselling” by magistrates and issue clear practice directions.

● **Recommendation 4**

Courts ensure that the existing time standards for hearing Family Protection Orders are adhered to through the development and implementation of a Benchbook or Best Practice Guidelines for judicial officers.

◆ **Recommendation 5**

Donors consider funding a comprehensive review of sentencing in sexual offences and domestic violence cases to identify trends and to inform the development of sentencing guidelines.

● **Recommendation 6**

Court registry staff to receive training on how to provide clients with consistent and appropriate procedural information and how to refer clients to external service providers to assist with applications for Family Protection Orders.

◆ **Recommendation 7**

The Vanuatu Government, in consultation with the Chief Justice of the Supreme Court, consider the establishment of a separate, specialised division within the Magistrates and Supreme Court specifically for family law and family violence cases with appropriate numbers of trained judicial officers and court staff, and a dedicated budget and human resources.

◆ **Recommendation 8**

The Government of Vanuatu, as a matter of priority, make adequate funding available for a purpose built courthouse in Port Vila to house the Supreme and Magistrates Court. This courthouse should include secure areas for women and children, space for legal and victim support services, be fully accessible and have available technologies to assist people with a disability.

■ **Recommendation 9**

Reasonable steps should be taken by the formal justice sector agencies to ensure that female judicial officers, court staff, police officers, and other justice sector agency staff and civil society organisations dealing with violence cases are protected and have a safe working environment.

● **Recommendation 10**

Each formal justice system agency introduce a client feedback and complaint mechanism to measure the quality of justice services provided to women and children.

● **Recommendation 11**

Formal justice sector agencies conduct regular user satisfaction surveys to inform their policies, procedures and practices.

● Can be implemented quickly ■ Can be implemented within 12 months ◆ Can be implemented in a timeframe longer than 12 months

Key Finding 1

Nationally, seven out of ten women (71%) aged over 15 years of age have either no education or have only completed primary education. Low levels of education, a lack of awareness of legal services as well as their legal rights inhibit women and children’s ability to access the formal justice system. Most women and children therefore need free legal advisory services (for example from the Vanuatu Women’s Centre, VWC), including to complete application forms required to access the formal justice system.

Key Finding 2

Very limited Information, Education and Communication material, including for people with poor literacy levels, explaining how to access the formal justice sector to enforce rights and seek remedies are displayed in courts, police stations, and prosecutors’ offices.

Key Finding 3

There is limited infrastructure and inadequate policies and rules in the formal justice sector to ensure the safety and privacy of women and children victims and witnesses of violence, and to avoid their re-traumatization.

Key Finding 4

100% of the budget of VWC and 36% of the operational budget of the Vanuatu Police Force (including the FPU) is supported by the Australian aid programme. Women and children’s access to the formal justice system is highly dependent on funding support from the Australian government aid programme. Without this financial support, almost no cases of family law, family violence and sexual violence would be brought to the formal justice sector in Vanuatu.

Key Finding 5

From 2002–14, the University of the South Pacific (USP) Community Legal Centre (CLC) operated as the first student based community legal centre in the South Pacific region. CLC was considered an extension of the Public Solicitors Office and handled 60–70% of the civil cases in the Magistrates Court in Port Vila. USP will reopen its community legal services as the Community Law Information Centre or CLIC in the first half of 2016.

◆ **Recommendation 1**

Government of Vanuatu to introduce a specific budget line item within the MOJCS budget that is directed to counselling, legal advice and legal representation for women in violence cases. This new budget could supplement the funding for existing government agencies (i.e. public solicitor) and civil society organisations such as VWC.

◆ **Recommendation 2**

Establish a Victim Support Unit located at each Magistrates and Supreme Court building for women and children, including those with a disability. The Government of Vanuatu should support this through the national budget. Vanuatu Women’s Centre could be supported under this budget to expand their current victim support work.

■ **Recommendation 3**

The Vanuatu judiciary and the Police Force develop policies and rules to ensure the safety, and avoid re-traumatization of victims/witnesses, and prioritise implementation of practical steps, such as providing private areas and the use of video-conferencing and other protective measures in courtrooms.

● **Recommendation 4**

Formal justice sector agencies, as well as CSOs and USP, support the development of appropriate Information, Education and Communication (IEC) materials and approaches including but not limited to: print, radio, plays.

● **Recommendation 5**

Donors continue support to VWC to enable them to continue to support over 4500 women and children a year to receive counselling, legal advice and legal representation.

■ **Recommendation 6**

Donors consider ways to support VWC and other free legal and violence advisory services to strengthen their services that support women and children living with a disability.

● **Recommendation 7**

USP Community Legal Information Centre and VWC work with the Family Court of Australia to adapt some of their existing legal information materials into more accessible “How-To-Guides” with infographics, in order to assist women to complete an application for a family protection order.

● **Recommendation 8**

USP Community Legal Information Centre work with the Vanuatu judiciary to explore the possibility of establishing a community legal service located in the Magistrates Court on set days (and possibly when the Supreme or Magistrates Court goes on circuit). This would be in addition to their current operations from the offices at the USP campus.

● **Recommendation 9**

The new Manager of the USP Community Legal Information Centre (CLIC) be supported to observe how similar clinical legal education programmes operate at Monash University including the community legal centres that the School of Law supports on campus and at the Dandenong Registry of the Family Law Courts of Australia and the Dandenong Registry of the Magistrates Court of Victoria.

● **Recommendation 10**

Justice sector agencies, together with health and other related services, identify in a cross-agency plan ways to implement coordinated and improved services to girls and boys experiencing sexual, physical and other forms of violence.

■ **Recommendation 11**

Government of Vanuatu introduce into the national curriculum for primary and secondary students modules on the rule of law as well as how to seek protection from physical and sexual violence [including from teachers and school staff].

● Can be implemented quickly ■ Can be implemented within 12 months ◆ Can be implemented in a timeframe longer than 12 months

F LACK OF DATA ON VIOLENCE AGAINST WOMEN AND CHILDREN, INCLUDING THOSE LIVING WITH A DISABILITY, AND THEIR ACCESS TO THE FORMAL JUSTICE SYSTEM

KEY FINDINGS

Key Finding 1

The 2009 Vanuatu National Survey on Women’s Lives and Family Relationships found that 44% of women experienced physical and/or sexual violence by their husband/partner in the last 12 months (N=22,901 based on 2009 census). However, it is estimated that on average only 2% of these cases (N=380) resulted in charges being laid by the police.

Key Finding 2

The court databases could not provide data on the final number of violence cases involving women and children that were filed or finalised in court, or the number of Family Protection Orders sought and granted.

Key Finding 3

The 2009 Vanuatu National Survey on Women’s Lives and Family Relationships found that the prevalence of sexual violence against girls under the age of 15 is also one of the very highest in the world. Almost 1 in 3 women (30%) were sexually abused before the age of 15 years, and the majority of perpetrators were male family members and boyfriends.

Key Finding 4

The court databases analysed could not provide data on the final number of cases involving sexual violence against girls that were filed or finalised in court.

Key Finding 5

The VPF does not have crimes statistics for each of the regional Commands, it cannot show which Command has the highest level of reported family and sexual violence cases or estimate the operational funds required to respond to these cases.

Key Finding 6

There is inconsistent reporting on financial statements and budget data across the justice sector.

Key Finding 7

The formal justice sector does not collect disability-disaggregated data. It cannot identify the number of family and sexual violence cases in which women or children with disabilities are the victims. Not can it identify the number of matrimonial cases brought by women with disabilities. Therefore, it cannot evaluate their ability to access remedies in the formal justice system.

RECOMMENDATIONS

■ **Recommendation 1**

Each Justice Sector Agency ensure that their case management system is able to track a single case and offender from the time of an incident report to a final court decision and enforcement.

■ **Recommendation 2**

Each Justice Sector Agency ensure that gender disaggregated data is a mandatory field in their new case management system in order to identify women as an applicant in civil cases and women as a victim of violence in criminal cases.

● **Recommendation 3**

The case management systems of each Justice Sector Agency should also collect data on the following mandatory fields: age of offender/victim; nature of the criminal offence; disability; legal representation, waiver of court fees, outcomes in a case.

● **Recommendation 4**

Annual reports of justice sector agencies should include more gender disaggregated data on the proportion of cases in which women or children access the formal justice system as an applicant in civil cases or as a victim of violence in criminal cases. This data should be further disaggregated to identify cases that involve women or children in urban/rural settings and whether they live with a disability.

● **Recommendation 5**

Justice sector agencies should report on the number, types of cases and outcomes in cases involving girls and boys in their annual reports.

■ **Recommendation 6**

The case management systems of each Justice Sector Agency should include mandatory fields for the collection of disability-disaggregated data. This data should inform the development of an inclusive formal justice sector strategy and should be reported in annual reports.

● Can be implemented quickly ■ Can be implemented within 12 months ◆ Can be implemented in a timeframe longer than 12 months

G GUIDELINES FOR INTERACTION BETWEEN MEDICAL, POLICE AND CORONIAL SERVICES IN DOMESTIC VIOLENCE CASES

KEY FINDINGS

Key Finding 1

The Vanuatu Police Force introduced Standard Operating Procedures: Family Violence Prevention and Response in June 2015. However, these Procedures do not include guidelines on when police should request that a pathologist conduct a forensic autopsy in cases where the police have reasonable grounds to believe an act of domestic violence has caused death.

Key Finding 2

The provisions of the Vanuatu Criminal Procedure Code dealing with a Coroner's Report and post-mortem examinations are not being followed in all cases where there is a reasonable suspicion that an offence has been committed, including in a domestic violence context.

Key Finding 3

There is no trained forensic pathologist in Vanuatu although the Government of Australia Pacific Regional aid program includes the development of a new post graduate course in Pathology at the College of Medicine, Nursing and Health Sciences at the Fiji National University.

RECOMMENDATIONS

● Recommendation 1

Formal justice sector agencies, Port Vila hospital staff and the coroner review the circumstances surrounding the death of Annie Joseph in January 2016 and make recommendations on how the response of the formal justice sector agencies might be improved.

■ Recommendation 2

The Vanuatu Police Force should develop a Standard Operating Procedure (SOP) on when a forensic autopsy is mandatory. This should include cases where the police have reasonable grounds to believe an act of domestic violence caused death. It should also establish who is responsible for ensuring that the arrangements for an autopsy are made and the timelines to be followed.

● Recommendation 3

Ministry of Health clarify responsibilities of medical officers and medical institutions in relation to reporting a death where there is a reasonable suspicion that an offence has been committed.

■ Recommendation 4

VPF and Ministry of Health consider collaborating with expert organisations in the Asia-Pacific region, such as the Victorian Institute of Forensic Medicine and the Asia-Pacific Medico-Legal Agencies Network on the development of an SOP, as well as of a roster of international forensic pathology services to support local doctors in Vanuatu conduct forensic autopsies until such time as there is a national forensic pathologist based in Vanuatu.

H OVERCOME CULTURE OF IMPUNITY AND PUBLICISE FAMILY VIOLENCE CASES IN THE FORMAL JUSTICE SYSTEM

KEY FINDINGS

Key Finding 1

There is a lack of consistent and committed political leadership to advance gender equality, condemn all forms of violence against women and children and prioritise funding for accessible, high-quality formal justice responses.

● Recommendation 1

Leaders in all justice sector agencies agree to introduce multi-sectoral quarterly meetings to identify challenges and develop coordinated responses for women and children experiencing violence by health, counselling and justice sector agencies. Consider using video conferencing facilities in provincial government offices to allow the participation of people outside Port Vila.

■ Recommendation 2

Leaders in all justice sector agencies commit to holding regular community information sessions across Vanuatu to emphasise that violence against women and children is a crime and inconsistent with the values of Vanuatu society. The message should focus on the high prevalence of sexual violence against children by family members and the damage that this does to Vanuatu's citizens.

● Recommendation 3

The Magistrates Court should publish on PACLII suitably anonymised judgments and sentencing decisions in s. 10 FPA (2008) domestic violence cases.

● Can be implemented quickly ■ Can be implemented within 12 months ◆ Can be implemented in a timeframe longer than 12 months

Key Finding 1

There is no disability inclusive strategy to assist women and children with a disability to access the formal justice system.

Key Finding 2

Discrimination on the ground of disability is not prohibited by law.

Key Finding 3

All formal justice sector actors requested awareness raising and training on the rights of people with disabilities.

Key Finding 4

Offices of justice sector agencies are inaccessible for many women and children with disabilities.

Key Finding 5

There is no Bislama sign language or braille technology in Vanuatu. The police and judicial officers do not have access to technological aides, nor do they widely use picture boards to assist communication with people with disabilities. There are no materials on rights and court services in braille.

Key Finding 6

Apart from family members, the courts and the police rely only on one or two known individuals in the disability sector to “interpret” for women and children with disabilities in court and in police interviews. They are not professionally qualified, although they do have considerable experience working with people with disabilities.

Key Finding 7

The Vanuatu Women’s Centre is the only organisation providing counselling support to women and children who have experienced family violence and sexual violence. They are also the principal organisation providing legal advice and support for women accessing the formal justice system. The Centre’s counsellors and legal staff do not receive specialised training in working with women and children with disabilities.

■ **Recommendation 1**

Under the leadership of the MoJCS, justice sector agencies work with disabled persons organisations and civil society organisations who work with women and children to identify the particular barriers faced by women and children with a disability in accessing the formal justice system in Vanuatu and to develop a disability inclusive justice strategy.

● **Recommendation 2**

The Director-General of the MoJCS should strengthen the National Disability Committee and ensure that it has a clear mandate with key performance indicators, meets regularly, includes representatives from women’s and disability civil society organisations and reports annually. A report from the Committee on its activities should be included in the Annual Report of the Ministry.

■ **Recommendation 3**

Under the leadership of the MoJCS, justice sector agencies, in consultation with women’s organisations and disability advocacy groups, develop and implement a training programme for the judiciary, court staff, prosecutors, public solicitor and the all police units on:

- the Convention on the Rights of People with Disabilities,
- the nature of different kinds of disability;
- the specific impacts of disability and gender on women and children’s experience of family violence and sexual violence; and
- the specific barriers that women and children with disabilities face in trying to access the formal justice system.

◆ **Recommendation 4**

Donor countries consider working with Vanuatu formal justice sector agencies to fund upgrades to the courthouses and police stations to enable full access by people with disabilities.

■ **Recommendation 5**

Under the leadership of the MoJCS, justice sector agencies, in consultation with Vanuatu disability advocacy groups and women’s organisations, and other experts (e.g., other court jurisdictions), develop a strategy to improve access to justice through the use of technological supports to aid communication, accessible materials on rights and how to access justice, and for training sign language interpreters.

■ **Recommendation 6**

Consider a programme to train paralegals to work with and support women and children with disabilities accessing the formal justice sector, starting with the four provinces where the Magistrates Courts sit.

■ **Recommendation 7**

Donor countries and VWC to discuss training for all VWC staff members on how to support women and children with disabilities access the formal justice system. More advanced and specialised training for counsellors and legal staff should be provided.

● Can be implemented quickly ■ Can be implemented within 12 months ◆ Can be implemented in a timeframe longer than 12 months

ABBREVIATIONS

BNPL	Basic Needs Poverty Line
CAVAW	Committee against Violence against Women
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CLIC	Community Legal Information Centre (of the University of the South Pacific)
CMS	Case management system (for the judiciary and other justice sector agencies)
CRIMS	Criminal Information Management System
CRPD	Convention on the Rights of People with Disability
CSU VPF	Corporate Services Unit, Vanuatu Police Force
DSP	Department of the State Prosecutor of the Vanuatu Police Force
DOJCS	Department of Justice and Community Services
DPA	Disability Promotion and Advocacy Organisation of Vanuatu
DPO	Disabled persons organisations
FPA	Family Protection Act 2008
FPO	Family Protection Order provided under the Family Protection Act
FPU	Family Protection Unit (of the Police Force)
FV	Family violence
FV SOP	Family Violence Standard Operating Procedure
IFCE	International Framework for Court Excellence
INGO	International non-government organisation
NGO	Non-government organisation
OPS	Office of the Public Solicitor
PacLII	Pacific Island Legal Information Institute
PJDP	Pacific Judicial Development Programme
PPDVP	Police Prevention of Domestic Violence Programme
SCC	Sanma Counselling Centre, a branch of VWC at Luganville on Santo island
SGBV	Sexual and gender-based violence
SOP	Standard Operating Procedure
TCC	Tafea Counselling Centre, a branch of VWC at Lenakel on Tanna island
ToCC	Torba Counselling Centre, a branch of VWC at Sola on Vanualava island
UN	United Nations
UNDP	United Nations Development Program
UNICEF	United Nations Children’s Fund
UN WOMEN	United Nations Entity for Gender Equality and the Empowerment of Women
USP	University of the South Pacific
VNSO	Vanuatu National Statistics Office
VPF	Vanuatu Police Force
VT	Vatu (Vanuatu local currency)
VWC	Vanuatu Women’s Centre