



Promoting
Access to Justice
for **Women &**
Girls in
Pacific Island
Countries

Issue 2



BACKGROUND

Sexual and gender based violence (SGBV) has a negative and profound impact on women and girls' lives: health, education, safety, familial relationships, economic advancement etc.. According to a U.N. Women study in the Solomon Islands, 74% of women survey believed the court system would be the best forum for redress for gender based violence. Yet, the same study found that women had a low level of trust in the Justice System, and therefore, were less likely to seek justice through the courts. ICAAD's analysis of over 900+ SGBV legal cases in the Pacific region found that accountability is undermined by pervasive gender stereotypes and customary reconciliation practices that are used by Judges to reduce or suspend sentences for perpetrators. Access to justice for women and girls means having a justice system that recognizes the gravity of the violence being committed.

KEY OUTPUT

On September 17th – 18th, ICAAD's co-founder Hansdeep Singh shared research conducted over two years on how gender stereotypes and customary forms of reconciliation impact sentencing of perpetrators in SGBV cases at the South Pacific Lawyer's Conference in Brisbane, Australia. The Conference was attended by 100 lawyers from 16 Pacific Island Countries.



https://www.youtube.com/watch?v=wxpc_LdP4nk

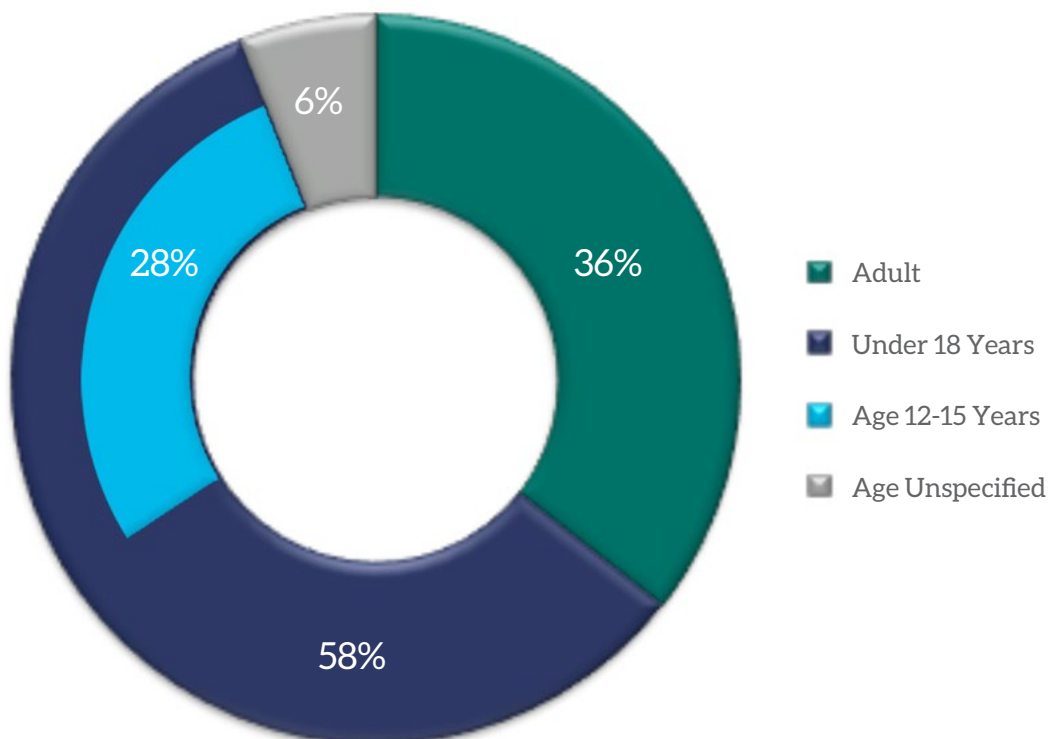
ICAAD has been working in partnership with [DLA Piper](#) and Manatt, law firms based in Australia and New York, since 2013 to pinpoint underlying causes of structural discrimination and violence against women and girls. In partnership with DLA Piper, we analyzed 908 cases from 7 Pacific Island Countries, from the Magistrate to the Supreme Court level, we were able to uncover the degree to which gender stereotypes and customary reconciliation practices were being used as mitigating factors to reduce sentences for perpetrators in domestic violence (DV) and sexual assault (SA) cases. Shockingly, reliance on gender stereotypes and customary reconciliation, led to a sentence reduction in 66% of DV cases and 50% of SA cases.



Hansdeep Singh, ICAAD Co-Founder, presenting at SPLA Conference in Brisbane, Aus

Our findings expose serious gaps in the way courts are responding to SGBV cases, especially when we consider the important pillars on which these systems rest: consistency; transparency; and accountability. Even if one of these pillars gives way, the barriers to accessing justice for women and girls becomes exponentially more difficult. Furthermore, when the justice system itself acts in a discriminatory manner, it implicitly sanctions the perpetuation of gender inequality throughout society.

Age of Victim/ Survivors



COMPELLING STORY

One of the poignant stories about domestic violence shared at the Conference involved a woman who was 8 months pregnant. One Sunday, she asked her husband to accompany her to Church. Her husband was unresponsive, and she inquired if he was upset about her extramarital affair, which she had received punishment from the village for two months earlier. In that instant, he picked up a rock holding down a mosquito net and slammed it into her jaw. As she screamed, he covered her mouth to silence her at which time she instinctively bit down on his fingers to protect herself. In response to her act of self-defense, he picked up another rock and struck her head, ultimately killing her.

In this particular case, the judge did not focus on the defensive action taken by the pregnant wife to protect herself, rather, he saw her actions as a “substantial degree of provocation” for her husband’s murderous response. He identified two reasons that would merit a lower starting sentence for her husband because she provoked him: 1) the wife mentioning her extramarital affair; and 2) her biting down on her husband’s fingers. The judge eventually sentenced the perpetrator to 5 ½ years in prison. Emily Christie of DLA Piper, our partner on this project, stated, “provocation, in the context of gender based violence cases, can reflect gender stereotypes.” This case provides a clear example of how judges use the language of provocation to engage in victim blaming to justify low sentences of perpetrators.

RECOMMENDATIONS

To ameliorate the injustice and indignities that women and girls face, ICAAD developed a set of recommendations (detailed in the upcoming Report) that include: the creation of an independent monitoring body and complaint mechanism process for reporting low sentences; the removal of gender stereotypes and customary reconciliation practices as a form of mitigation (sentence reduction); restitution for the survivor in both civil and criminal proceedings; and the imposition of sentencing guidelines that account for the gravity of the crime.

This initiative is part of our three year [Clinton Global Initiative Commitment to Action](#) and our rule of law trainings in 2014 and 2015 combined with the publication of this Report will provide significant momentum as we move into year 2 of the Commitment.



CONCLUSION

Our Initiative is designed to strengthen the rule of law, which in turn promotes democracy and human rights within the Pacific region. By conducting in-depth research disseminated through rule of law trainings for magistrates/ judges, lawyers, and civil society, we are able to effectively advocate for law reform that aims to remove gender bias and improve judicial accountability.

We are grateful for your continuing support!

Any feedback from our supporters would be welcome, especially any ideas on what would make our Report more compelling for you. If you want a more in depth look at our work, we would be happy to engage on a Skype or Google Hangout.

Please contact Bryan Miller, Board of Director, at bryan@icaadglobal.org to schedule a meeting.

FUTURE UPDATES:

- Release of ICAAD's Groundbreaking Report on the impact of gender bias in the judiciary within 7 Pacific Island Countries
- The Attorney General's Office for Australia invited us to present at an upcoming meeting for Pacific Island Law Officer's Network (PILON) on December 8th in the Solomon Islands. The PILON meeting will include Attorney General's from across the Pacific region.
- Signing memorandums of understandings (MOUs) with local civil society and the Ministry of Health in Fiji
- Medico-Legal Trainings in Fiji

