

Landmark case highlights marital rape as crime

Tonga

SHARE

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‘This case is significant because now women know that marital rape is a crime and that they have the right to say “no”,’ says Fitolagi Fa’anunu, Director of the Family Protection Legal Aid Centre.

In May 2020, Lord Chief Justice M.H. Whitten QC sentenced a man to five years in jail for raping and beating his wife. The ruling made for this landmark case sent a clear message that unwanted sexual violence cannot be justified or tolerated.

As the Lord Chief Justice Whitten put it, ‘rape is rape!’

For more than 20 years rape within marriage has been a criminal offence in Tonga, as detailed in the *Criminal Offences Act*.¹ However, it still remains a ‘common but under-reported crime’.

‘It is not always easy to speak publicly about sexual abuse of women in the context of a marriage, but this decision will set the tone for raising awareness on this issue,’ said Ms Fa’anunu. ‘We are happy to have this decision finally from the Supreme Court.’

‘It is now very clear that raping your wife is a serious crime.’

In Tonga, due to the prolonged impacts of the global COVID-19 pandemic, there has been a reported increase in domestic violence.² Although concerning, the trends are resulting in increased collaborative efforts to raise awareness.

‘Women have a right to be protected from such acts even if done by their spouses. It is a crime to be forced to have sexual intercourse without her consent and even more so when forced whilst the spouse is intoxicated.’

With the May 2020 case, the issue was taken to court due to the intervention and support of neighbours when the survivor ran to them for help. However, should you ever require assistance organisations like the Legal Aid Centre are always available to provide:

- legal assistance including applications for protection orders
- referrals to the police (for filing of complaints for crimes committed)
- referrals to Women and Children's Crisis Centre and Tonga National Centre for Women and Children for counselling services.



Staff of the centre (left to right): Fitolagi Fa'anunu; Star Pau'u; Taufu'i Naufahu; Fatafehi Uata; Vika Akau'ola; and Naomi Fakauka. Photo credit: Pacific Community (SPC) Regional Rights Resource Team (RRRT).

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[1] Pacific Community (SPC) Regional Rights Resource Team, 2013. *Legal Analysis on Violence Against Women: Tonga. Drafting Options for Legislative Reform.* https://rrrt.spc.int/sites/default/files/resources/2019-01/Tonga_1.pdf

[2] Moala, K. 2020. *Domestic violence on the rise in Tonga.* Radio New Zealand, 3 August. <https://www.rnz.co.nz/international/pacific-news/422603/domestic-violence-on-the-rise-in-tonga>