

**Dipatmen blong Koreksenol Sevis**

# **SEXUAL OFFENDERS**

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An analysis of 50 offenders and their offences

# Preface

**This document uses Court records and departmental information to look at a range of issues that relate to sexual offending. Although sexual offenders make up the vast majority of the detainee population in Vanuatu up until now there has been little examination of these offenders and the offences they commit. A lack of factual information is a barrier to the development of effective responses and intervention**

**The aim of this document is provide a factual foundation for discussion amongst stakeholders as to the appropriate community response to this difficult and concerning issue. This type of offending often arouses strong emotions but the response to both preventing such offending and rehabilitating offenders needs to be based in careful and considered discussion.**

**While there is some discussion regarding potential rehabilitation and prevention responses this document does not make any particular recommendations. While it is hoped that the information might inform policy development, the approach that is finally taken is a matter for the community and stake-holders.**

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# 1

## Introduction

### The Problem

Sexual offenders make up approximately 70% of the detainees in the Correctional Centres of Vanuatu.

For every offender there is at least one victim and sometimes multiple victims. Victims endure not only the violence and indignity that is inherent in sexual offences but they often also have to cope with problems such as:

- sexually transmitted diseases
- unwanted pregnancies
- disruption to schooling or work
- long term pain from injuries
- social stigma and rejection
- psychological damage

The costs of imprisonment mean that precious State funds cannot be utilised for more positive activities. An imprisoned offender cannot provide for his family or community. Community relationships and kastom connections are often damaged by sexual offending and village life is disturbed.

## The Offender Sample

This analysis looks at 50 sexual offenders who were convicted between late 2006 and late 2008. The method of selecting them was very straightforward - we simply counted back from November 2008 until we had a sample of 50 offenders. The limitations of this approach are discussed below. The fact that it was quite easy to gather a relatively large sample within quite a short time-frame in a country with a relatively small population is a concern in itself.

The information was gathered using sentencing notes that are available on the Pacific Legal Database (PacLII), information recorded on the Department of Correctional Services Offender Management System (OMS) database and pre-sentence reports prepared by Probation Officers for the Court.

The key point to remember is that all the information reported relates to real offenders, real victims and real offences.

There are some general limitations and issues that should be kept in mind when looking at the data:

- Although the sample is of a reasonable size it is a 'snapshot' across two years and therefore it is not really possible to make any observations about trends over time
- There are a number of possible explanations as to why the rate of sexual offending appears to be so high relative to other types of offending. This issue is discussed in the document
- Despite the relatively high number, the offences described here are likely to represent a relatively small number of the overall number of offences that are committed.

# 2

## Offender Demographics

Looking at issues like age, education and home island helps to start painting a picture about offenders as a group or number of groups.

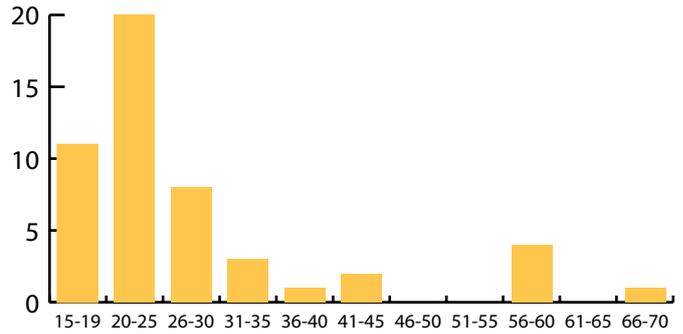
### Age of Offenders

Vanuatu has a very young population. 40% of the population is under the age of 15.

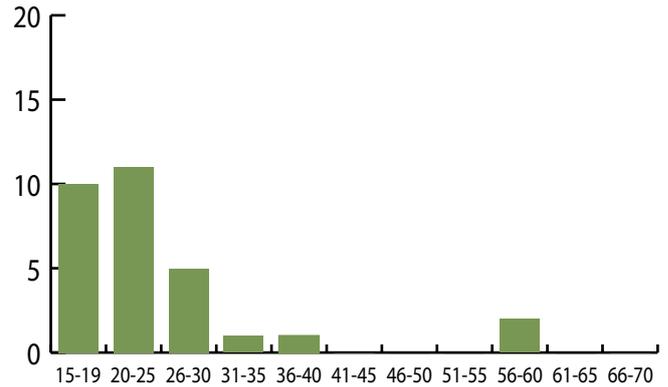
Offenders of all types are generally younger people. When they are considered as one group, convicted sexual offenders tend to be in their late teens to mid twenties with only a few older offenders coming to the attention of the courts. 62% of offenders are aged between 15 and 25.

When looking at the age of offenders from the urban areas of Port Vila and Santo it is immediately apparent that there is a higher number of teenage offenders in this group.

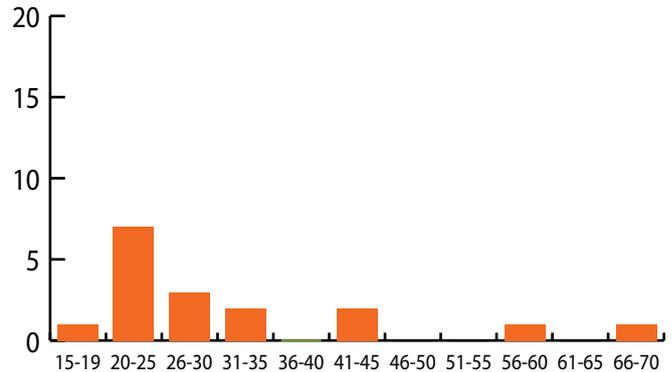
Offenders from rural areas tend to be slightly older with fewer teenage offenders.



Age of Offenders - all



Age of Offenders - Urban



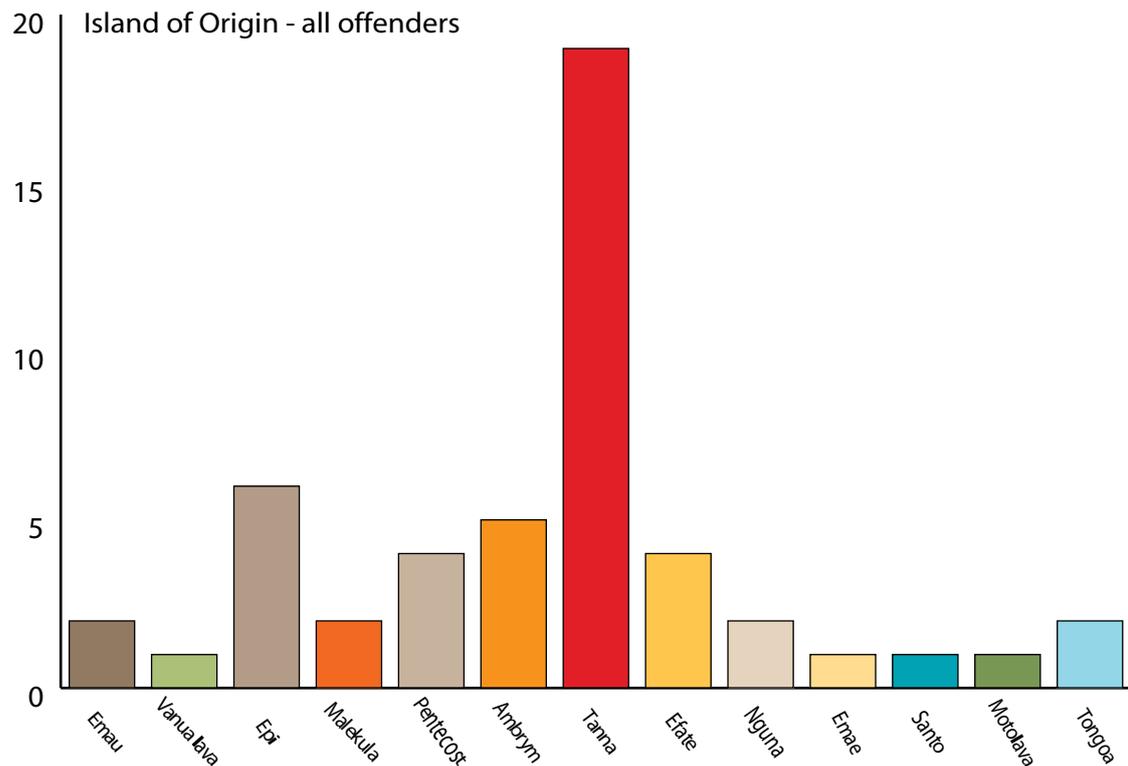
Age of Offenders - Rural

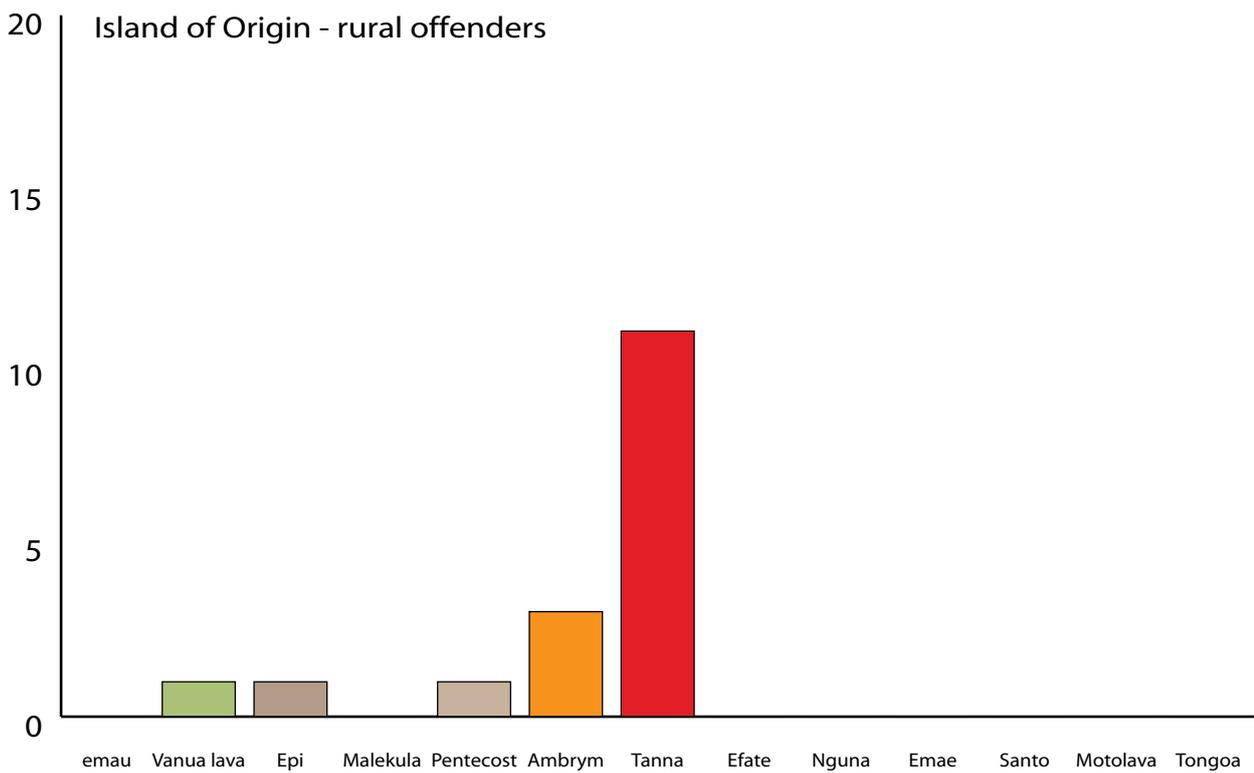
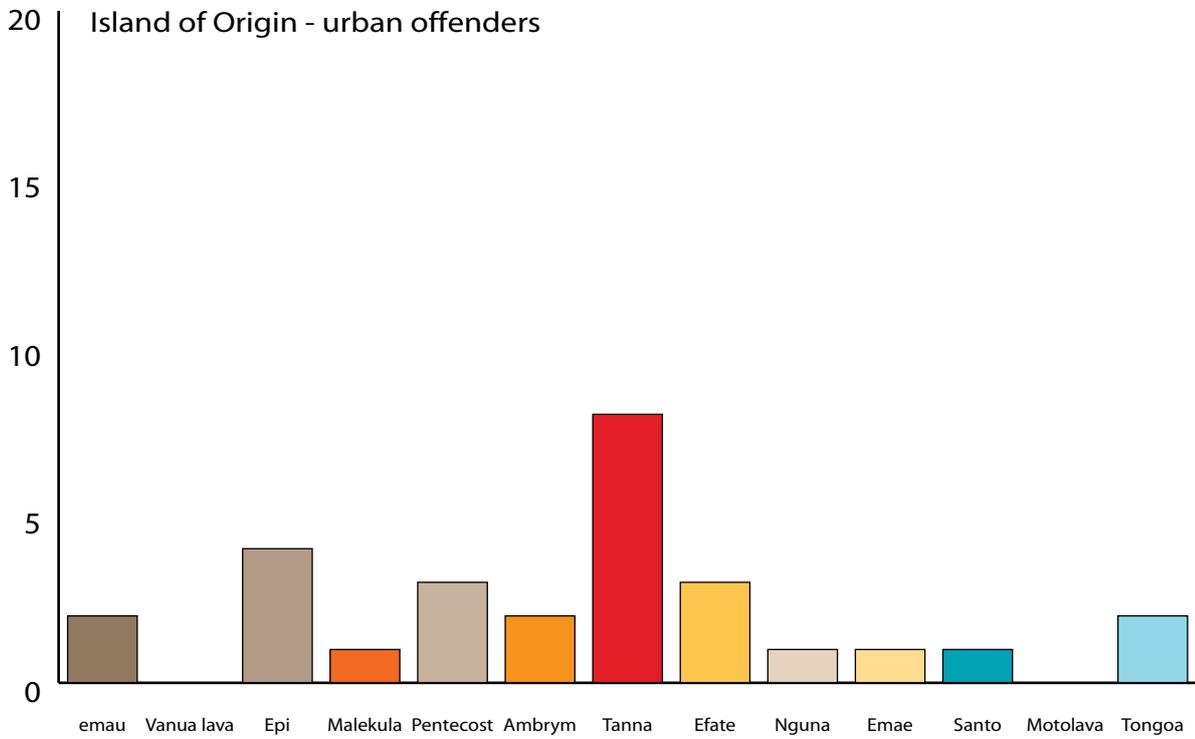
## Home island

While Vanuatu is one country it is made up of a large number of islands. Identifying with a particular island is a key part of ni-Vanatu life.

As is obvious from the graphs offenders from Tanna make up the majority of sexual offenders. As the same figures appear to exist for both rural and urban offenders this is not likely to be a result of the Supreme Court schedule in the outer islands for the two years of the sample. Similarly, the high proportion of offenders from Tanna is not accounted for by relative differences in population between Tanna and other islands.

However, it would currently be unwise to make any firm conclusions about the meaning of the numbers observed for this sample.





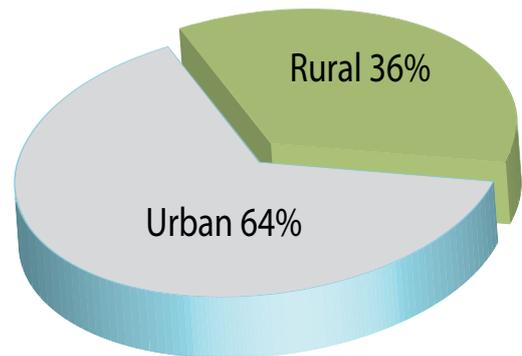
## Location of offending

Rapid urbanisation is a fact of modern life in Vanuatu. Many people, particularly young men, move to the urban areas of Port Vila and Luganville, often with the hope of finding work. Others move to urban areas to attend school or to undertake other sorts of training.

The graph to the right looks at where offenders were living at the time of their offence. Urban areas are Port Vila and Luganville. Rural areas are all locations outside the urban areas.

More offences appear to have been committed by offenders who were living in Port Vila or Luganville. However, this needs to be thought about carefully as there may be reasons as to why more offences come to the attention of the Police or the Courts in urban areas.

It is also clear that sexual offending is not something that happens only in urban areas. Some offenders committed their offences in quite remote locations.



Location of offending

## Relationship status

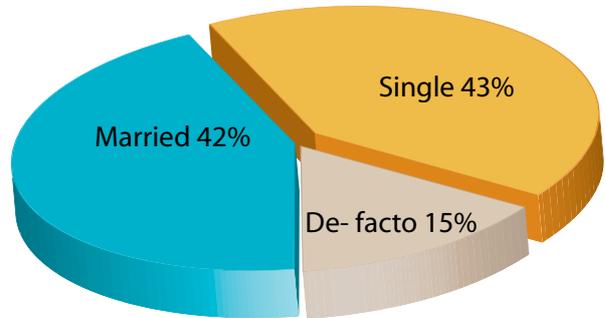
The charts on this page look at the relationship status of the offenders at the time of their offending. There are three basic categories; married, de-facto and single.

Married offenders were those who had been formally married via either kastom or a church marriage (or both).

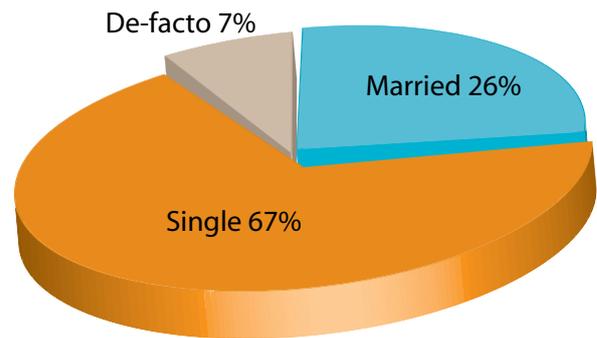
Those who were living with a partner but who were not married were deemed to be living in a de-facto relationship.

Although no detailed analysis was completed it seems that the majority of offenders who were married or living in a de-facto relationship had at least one child.

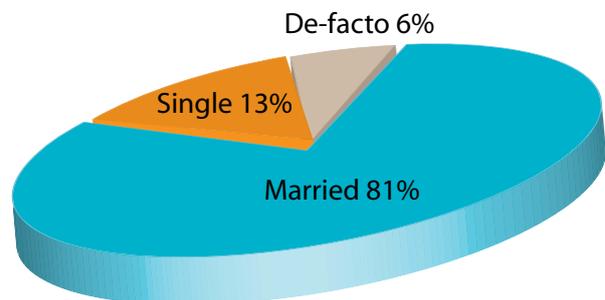
Single offenders were those who were not living with a partner at the time of their offence. The majority of these offenders were relatively young and while some had girlfriends (some of whom became victims) they were not considered to be living in a stable long term relationship.



Relationship status - all offenders



Relationship status - Urban Offenders



Relationship status - Rural Offenders

## Offending History

Most offenders appear to be first offenders with no previous criminal history.

However, it is important to note that this does not necessarily mean that the offender had not committed previous similar offences. In some cases it was clear that offenders had been causing problems in their communities for a long time with similar sorts of behaviour.



## Education

When looking at the educational achievement of offenders it is important to think about them in comparison to the wider population of Vanuatu.

Many offenders reported that they did not remain at school because their families could not afford the school fees. This problem is not one that is unique to offenders generally or sexual offenders specifically. Some offenders (usually those from the rural areas) reported that they had never been to school.

Being educated or having qualifications does not necessarily mean that an individual will not commit a sexual offence. Some of the most serious offences (including gang rapes) were committed by offenders who had completed their schooling or who were senior students at the time of the offence.

In this sample there were offenders with trade qualifications, theological training, a university degree and various other sorts of higher level education.

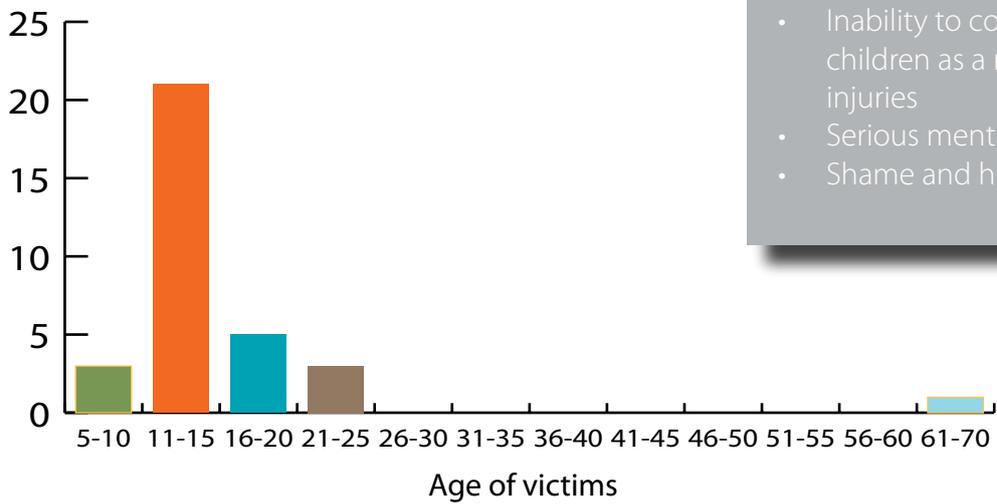
# 3 Victims of sexual offending

**For every offence there is at least one victim. The analysis below looks at some key statistics regarding victims. Impacts on victims that were noted by the court are also examined.**

## Age of victims

The graph below shows the age of the victims. It is clear that most victims are young women or girls. Note that the number of victims is less than the number of offenders due to multiple offender, single victim offences. Only one victim was male. The youngest victim was aged 9 (a boy) and the oldest was aged 70.

The victims were almost all ni-Vanuatu women or girls. For the two non ni-Vanuatu, one victim was a 20 year old expatriate living in Port Vila and one was a 70 year old tourist who was visiting Tanna.



**Impacts on victims**  
 Sentencing notes and pre-sentence reports described a number of impacts on the victims of sexual offences. They included:

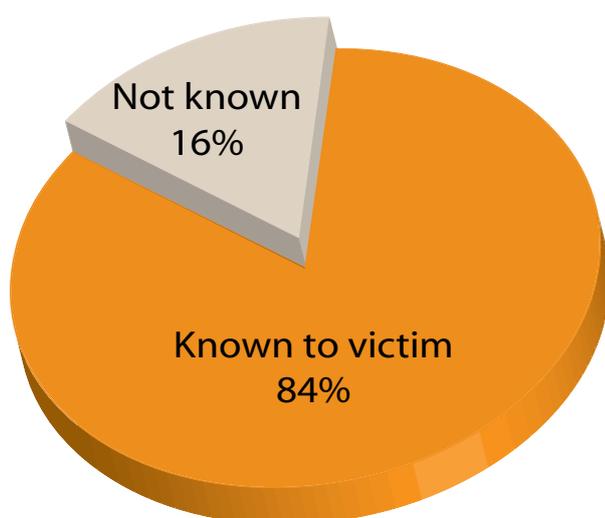
- Serious physical injuries including broken bones and stab wounds
- Unwanted pregnancies
- Sexually transmitted diseases
- Inability to continue with work or school
- Inability to conceive children as a result of injuries
- Serious mental illness
- Shame and humiliation

## Relationship between offender and victim

As can be seen from the graph below most victims knew the person who offended against them. Offenders included fathers, friends, youth group leaders, boyfriends, neighbors, housemates, relatives and acquaintances of victims.

Some people may be surprised that most offenders know their victims. This is actually very common throughout the world. Unfortunately, offenders are often the very people who victims should have been able to trust and who should have been keeping them safe.

The two cases where the victims did not know the offender involved offences against an expatriate and a tourist.



Note that if the gang rape of an expatriate woman is removed the percentage of offenders who knew their victim rises to 97%

# 4 Offending

This section looks at factors relating to the offences that were committed by the offenders in the sample. Offence type, use of violence, drugs and alcohol and numbers of offenders are examined.

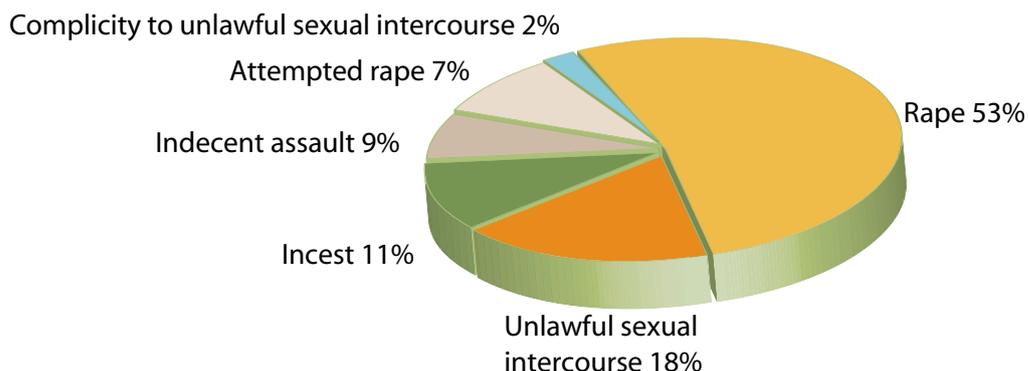
## Offence types

There are 17 different sexual offences listed in the Penal Code under “Offences against Morality”.

For this sample the offences were:

- incest - an offence against a family member
- unlawful sexual intercourse - sexual intercourse with a child (15 years and under)
- indecent assault - committing an act of indecency
- attempted rape - an attempt to commit rape
- rape - forced sexual intercourse
- complicity to unlawful sexual intercourse - assisting someone to commit unlawful sexual intercourse

The percentages for the types of offending are described in the chart below. It is apparent that rape and unlawful sexual intercourse are the most common sexual offences.

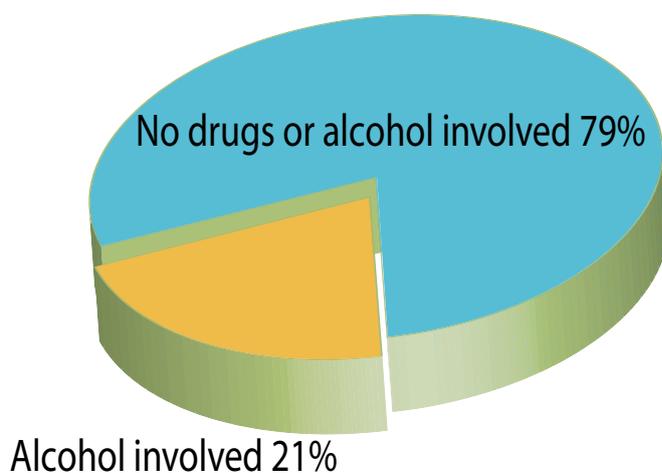


## Use of drugs and alcohol

Alcohol and drugs often play a part in offending behaviour. Information for this part of the report was drawn from pre-sentence reports and Judges sentencing notes - the information reflects the evidence presented in Court.

Given the level of community concern about the use of marijuana it is interesting that alcohol is the only drug mentioned in relation to the offending. However, alcohol is well recognised as a substance that lowers inhibitions - when they have been drinking people are more likely to do things they otherwise wouldn't do.

Although intoxication is not a defence for committing any offence, in some ways the low level of drug and alcohol involvement is a concern as it indicates that the majority of offenders knew exactly what they were doing.



## Violence

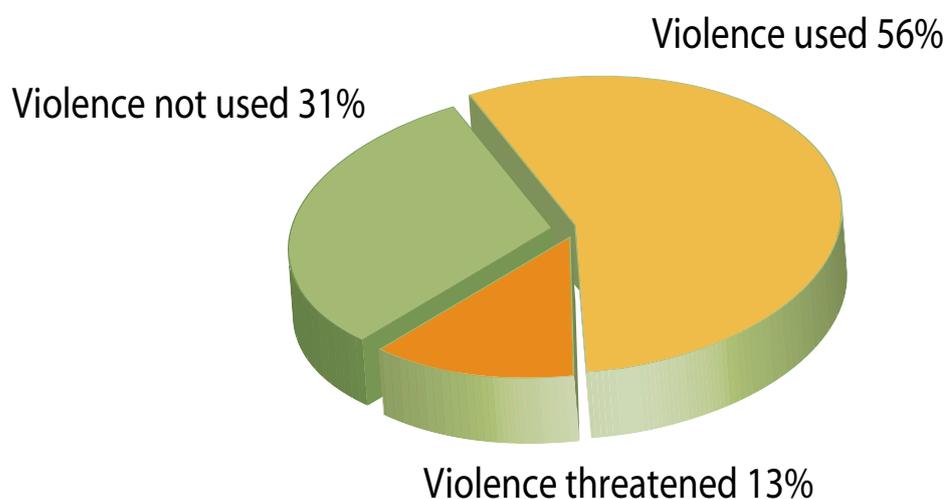
The use of violence in the course of committing a sexual offence provides a deeper understanding of the impact of the offending on victims.

There is a perception that a large number of offences occur as a result of young people under the age of consent engaging in consensual sexual activity that then comes to the attention of families or the police. However the proportion of offending that involves actual violence or threats of violence indicates that the vast majority of victims did not want to have sexual contact with the offender .

The types of violence used against victims included:

- being hit with fists
- being strangled or suffocated
- being cut with knives or bushknives
- being hit with rocks
- being tied up
- being held down while being raped by other offenders

Even where violence was not used or threatened most victims were coerced and most reports indicate that victims were frightened or crying during the course of the offence.



## Multiple Offender - single victim offences (gang rapes)

The offender sample included four offences where multiple offenders raped a single victim. A review of Court records indicates that these types of offences appear to have become more common in recent years. While any sexual offence is extremely serious these types of offences are especially disturbing.

Based on this sample there appear to be two basic types of offence:

1. Offences where a group of offenders identify a vulnerable victim and commit the offence (sometimes in the course of committing another offence such as breaking into a house)
2. Offences where a gang rape is used as means of humiliating a victim or to "teach her a lesson"

These offences all involved the use of violence to subdue the victim. Based on this sample, and a review of other similar cases, these offences are more likely to occur in urban areas and the offenders are usually younger (in one recent case one offender was aged 14).

The use of sexual violence to humiliate a victim or to take revenge on her is a crime with some extremely disturbing features. In this sample one offence involved nine offenders. One offender was the victim's boyfriend who set up his friends (from various islands) to rape the victim. The attack was planned and all of the offenders knew what was going on - none of them refused to take part in the offence.

These types of offences highlight that many sexual offences are not really about sexual gratification. They are about the negative attitudes and beliefs of some men towards women and what they believe is acceptable conduct towards women.

## Offender pleas

Whether an offender pleads guilty or not guilty is at best a very rough indication of their attitude towards their offending behaviour. It is important to keep in mind that offenders may plead guilty for a range of reasons.

It was also interesting to note from pre-sentence reports and sentencing notes that for a significant number of offenders a guilty plea did not necessarily mean that they were particularly remorseful or sorry for their offending. Offenders often attempted to shift the blame for their behaviour onto their victims or to other people.

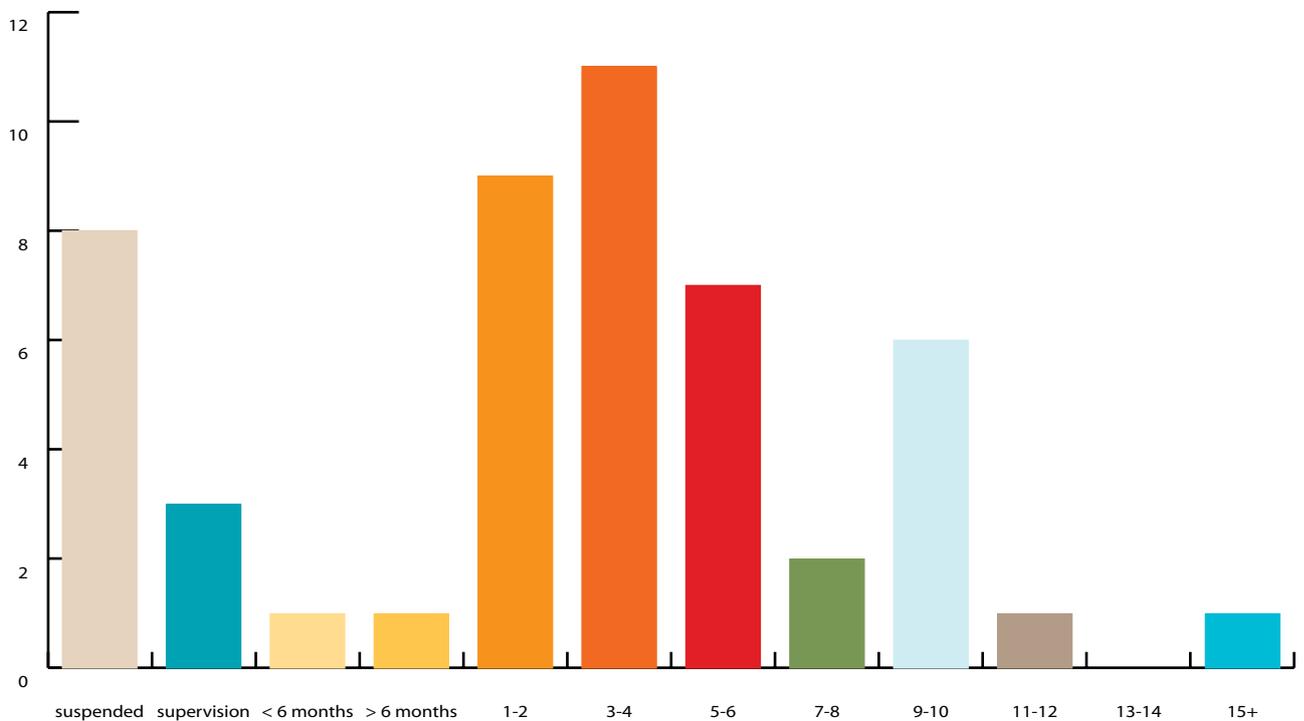


# 5 Court responses

This section looks at how the Courts have dealt with offenders. Sentence lengths, offender pleas and observations of the Judges are outlined.

## Sentence Lengths

The graph below shows the length of sentences for the offenders in this sample. When the previous ten years are reviewed it is clear that Judges are imposing longer and longer sentences for sexual offences. Despite the increase in the length of sentences there does not appear to be a reduction in either the rate or the seriousness of sexual offending.



## Judge's observations

When sentencing offenders Judges sum up the case in order to make it clear how they reached their decision about an offenders sentence. There are also particular cases that are often referred to as guidance for sentencing and to express the views of the judiciary regarding particular types of offending.

*"The offence of rape is always a most serious crime. Other than in wholly exceptional circumstance, rape calls for an immediate custodial sentence. This was certainly so in the present case. A custodial sentence is necessary for a variety of reasons. First of all to mark the gravity of the offence. Secondly to emphasize public disapproval. Thirdly to serve as a warning to others. Fourthly to punish the offender, and last but by no means least, to protect women."*

*Chief Justice 2002 – this judgement became a guidance judgement for the sentencing of sexual offenders*

"You [the nine offenders] did not treat her like a human being. This was a very bad case of rape where you caused her pain and humiliation, physical and mental. I wonder what you would think if this was done to your mother or sister"

"The circumstances of the offendings in this case are, in my view, clearly an abuse by a father of his young girls of 10 and 11 years old at the time of the offendings. For both girls the offending did not occur once but more than once. You have used your own daughters for your own sexual gratification. You are their father. They looked to you for support, protection and assistance as a father is entitled to provide to his children. Instead you abused their trust and took advantage of their vulnerability. You, I believe, have destroyed the special bond that exists between you as their father and your daughters."



# 6 Addressing the problem

**It is clear that there is a problem with sexual offending . This section raises some general points regarding potential ways of addressing the problem.**

## Primary Prevention

One of the best options for dealing with sexual offending is to prevent the offences occurring in the first place by addressing the issues that contribute to offending. This is a different matter from preventing re-offending via offender rehabilitation where the focus is on the offender.

Primary prevention strategies can include things like:

- Raising community awareness about the issue via Chiefs, Churches and the media
- Support and education for Police and agencies working on community safety - a major deterrent to offending is a high likelihood that the offender will be caught and prosecuted
- Support for Women's groups and groups working with young people
- Education in schools for boys about appropriate sexual behaviour and the rights of women
- Education in schools for girls about strategies for staying safe

## Support for Victims

As discussed earlier in the report, victims of sexual offending suffer a range of negative consequences as a result of this type of offending - with many of those consequences lasting a lifetime.

One of the major problems with sexual offending is that victims are reluctant to come forward about what has happened to them - often because they have been threatened by the offender or due to the shame they feel. This means they suffer the consequences of the offending in secret and the offender is not held to account.

Strategies that support victims include things like:

- Support for groups and agencies that provide specialist support - eg the Vanuatu Women's Centre
- Support, training and ongoing education for Police Units dealing with victims who report offending
- Development of services such as free phone help-lines that provide victims with access to services and advice
- Education regarding victim issues for Chiefs, Pastors and others who may be called upon to assist in dealing with offending

## Offender Rehabilitation

Although there is a huge amount of international research on sexual offenders and approaches to rehabilitation it is important to remember that sexual offending always occurs within a specific cultural context and that what applies in one country may not apply in another.

Sexual offending is seldom only about sexual gratification. It was clear in this sample of offenders that in some cases rape was used as a means of revenge or to humiliate the victim. Any rehabilitation programmes need to focus on appropriate targets - these targets should include negative attitudes towards females and positive beliefs about the role of violence.

Some ideas people have about the causes of sexual offending were not supported by the data in this sample. This doesn't mean that these issues are not relevant, but when thinking about rehabilitation it is important to focus on issues that are supported by good information and data .

It is also important to recognise that most of the international research on offender rehabilitation has occurred in relatively wealthy countries where there is easy access to highly skilled workers, specialist facilities and follow-up services. Access to this level of skill and resources is not available in most developing countries.

While there may be resource limitations in countries such as Vanuatu there are also resources and strengths that are often limited in more developed countries. In Vanuatu the role of kastom and Chiefs along with the role of Churches and Pastors are examples of community strengths that are often lacking in more developed countries.

## 7 Summary

The main aim of this report has been to raise awareness about the nature of the problem of sexual offending. The report has focused on data and information that can help to inform further research and to help in developing strategies and policies to address the problem. Some of the data (especially the island of origin issue) will need further research in order to gain a better understanding of the issue.

The data suggests that some commonly held ideas about the causes of sexual offending in Vanuatu need more careful thought. For example, it appears that drug misuse (especially marijuana use) is not a major contributing factor. A lack of formal education is also a factor that does not appear to be especially significant. Some offenders were highly educated, some offenders had no formal education. This doesn't mean these issues should be ignored as a part of rehabilitation and reintegration but they are not the total answer to the question about what causes this type of offending.

It is hoped that this report will stimulate more research. For example, if offenders are to be rehabilitated they must believe that what they did was wrong. Quite a lot of the information in this report indicates that offenders believed they were justified in committing their offences or that they had some sort of right to sexually offend against girls or women. This needs more research - both for offenders and in the general population.

Most importantly, it is hoped that this report will stimulate the development and implementation of programmes and strategies that will reduce the number of victims.