



Pacific Judicial Development Programme

2014 Court Trend Report

JUNE 2015





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Abbreviations

BNPL	Basic Needs Poverty Line
CAR	Court Annual Reporting
FCA	Federal Court of Australia
FSM	Federated States of Micronesia
GDI	The Gender Development Index
GDP	Gross Domestic Product
GNI	Gross National Income
HDI	The Human Development Index
HIES	Household Income and Expenditure Survey
IFCE	International Framework for Court Excellence
JME	Judicial Monitoring and Evaluation
NGO	Non-Government Organisation
NZ MFAT	New Zealand Ministry of Foreign Affairs and Trade
MLSC	Micronesian Legal Service Commission
OECD	The Organisation for Economic Co-operation and Development
PacLII	Pacific Island Legal Information Institute
PIC	Pacific Island Country
PJDP	Pacific Judicial Development Programme
PNG	Papua New Guinea
RMI	Republic of the Marshall Islands
SamLII	Samoa Legal Information Institute
TRC	Traditional Rights Court
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund

Mission and Vision Statements of the PJDP Partner Courts

Cook Islands

Mission and Vision Statement: To provide accurate, proficient and effective customer services through administering just and equal laws that continue to promote a safe, secure, stable and fair society, holding persons accountable for their actions, and to provide a more reliable, accessible and sustainable land information and administration system working towards an electronic environment.¹

Federated States of Micronesia²

Mission Statement: The mission of the Supreme Court of the Federated States of Micronesia (FSM) is to serve the people through timely and fair administration of justice for all, by discharging its judicial duties and responsibilities in accordance with the Constitution, laws, and customs and traditions of our unique Pacific-Island Nation.

Vision Statement: The FSM Supreme Court will conduct itself as an independent, fair, impartial, and properly managed co-equal branch of the FSM National Government in rendering justice to all.

Kiribati

Mission Statement: To provide effective services to the people of Kiribati through the Judicial system, in particular, through the Courts.³

Vision Statement: To establish and maintain a strong, healthy and efficient Judiciary.

Republic of the Marshall Islands

Mission Statement: The mission of the courts of the Marshall Islands, the Judiciary, is to fairly and efficiently resolve disputes properly brought before them, discharging their judicial duties and responsibilities in accordance with the Constitution, laws, and customs of this unique island nation, for the benefit of those who use the courts' services.

Vision Statement: The Marshall Islands Judiciary will be an excellent small-island judiciary, deserving of public trust and confidence.

- We will be fair and impartial.
- We will treat court users and colleagues with dignity, courtesy, and respect, and we will require the same in return.

¹ Government of the Cook Islands Ministry of Justice, 2013–2014 Court Report.

² FSM National Judiciary Calendar Year 2012 Annual Report.

³ Address delivered at the Formal opening of the Court Commencing the 2015 Legal Year of the High Court of Kiribati on 6 February 2015 by the Honourable Chief Justice Sir John Muria.



- We will provide affordable and accessible services to court users.
- We will seek to resolve matters efficiently, while maintaining quality, consistency, and certainty.
- We will be independent yet accountable, deciding matters based upon the facts before us and a conscientious understanding of the law and custom.
- We will administer the courts in accordance with internationally recognized standards for leadership, management, and accountability.
- We will seek and employ innovative practices and procedures to better serve court users, to identify users' needs, and to develop court personnel.
- We will maintain adequate and safe courthouses and a supportive work environment. We understand that these are ambitious goals. However, recent history indicates that they are within our grasp.⁴

Nauru

Mission Statement: To have a just and peaceful society, where an independent, impartial Judiciary delivers justice effectively and efficiently and supported by ethical legal professionals.

Vision Statement: Deliver justice that is fair, visible, tangible and accessible to all.

Palau

Mission Statement: The Judiciary's purpose is to preserve and enhance the rule of law by providing a just, efficient and accessible mechanism for resolving disputes. The Judiciary will interpret and apply the law, as modified by custom and tradition, consistently, impartially, and independently to protect the rights and liberties guaranteed by the laws and Constitution of the Republic of Palau.

Vision Statement: The courts of the Republic of Palau will provide justice for all while maintaining the highest standards of performance, professionalism, and ethics. Recognizing the inherent dignity of every person who participates in the justice system, the Judiciary will treat each participant with respect and will strive to make the process understandable, affordable, and efficient. Through the thoughtful, impartial, and well-reasoned resolution of disputes, the Judiciary will enhance public trust and confidence in this independent branch of government.

Papua New Guinea

Mission Statement: To provide equal access to independent, fair and just judicial services to all people.

Vision Statement: To administer and deliver a coherent judicial service that is based on justice, equality and fairness in an independent, efficient and effective manner to all people.

Samoa

Mission Statement: To promote, provide and protect access to justice for a safe and stable Samoa.

Vision Statement: Justice for a safe Samoa.

Solomon Islands⁵

Mission Statement: Deliver justice that is visible, tangible and accessible to all.

Vision Statement: Have an independent; impartial judiciary; with administrative and financial autonomy, to deliver justice effectively, efficiently and locally.

Tokelau

Law and Justice Key Objectives: To enhance community safety. To improve access to justice. To institute principles of good governance and enhance integrity in the institutions of law and justice. To improve information and human resource management in the law and justice sector. To improve national border management.

Kingdom of Tonga

Mission Statement: To provide, promote, support and protect an independent judiciary.

Vision Statement: To be an excellent and renowned provider of justice services.

Vanuatu

Vision Statement: A judiciary that is independent, effective, efficient and worthy of public trust and confidence, and a legal profession that provides quality, ethical, accessible and cost-effective legal service to our people and is willing and able to answer to public service.

Executive Summary

This 2014 PJDP Court Trend Report presents a fourth year of court performance data against 15 indicators and compares results against those presented in the PJDP 2011 Court Baseline Report⁶. There have been some significant improvements in the ability of PJDP partner courts to report on their performance each year to the public. These are set out in Box 1 below. 26 Key Findings and 24 Recommendations are summarised at the end of this Executive Summary.

As this Report is published at the conclusion of the Pacific Judicial Development Programme, it is hoped that the PJDP Chief Justices, National Coordinators, judges and court administrators in the region will continue to build the capacity of their judicial and court staff colleagues to publish court Annual Reports that convey a clear picture of their court's performance to the public and to court stakeholders.

Box 1: Improvement in Court Annual Reporting 2011–2015

Court Annual Reporting 2011 – 2015		
In 2011, the PJDP Chief Justices approved 15 court performance indicators: the Cook Island Indicators. Four years later, significant improvements have taken place in the 14 PJDP jurisdictions in court performance reporting and the transparency of this information.		
2011 Baseline Report		2014 Court Trend Report
1	Number of PJDP courts that can produce an Annual Report in the year immediately following the reporting period that is published on the internet	10
2	Number of PJDP Courts that can report on 10 or more of the 15 Cook Island Indicators	12
0	Number of PJDP Courts that have included gender disaggregated data on family law and family violence cases in their Annual Report	4
2	Number of PJDP Courts that have included juvenile disaggregated data in their Annual Report	6
–	Number of PJDP Courts that have issued their first judiciary Annual Report since 2011	7

PJDP goal

Strengthened governance and rule of law in Pacific Island Countries (PIC) through enhanced access to justice and professional judicial officers who act independently according to legal principles.

At the outset of PJDP it was determined that:

- 1 No judicial and court baseline data exist that can be applied across the region.
- 2 There is no clear understanding about how judicial and court baseline data can be used to improve the administration of justice across the region.
- 3 There are an unquantified number of marginalised/disadvantaged prospective court users facing a range of barriers in accessing the courts.

6 http://www.fedcourt.gov.au/__data/assets/pdf_file/0003/18696/2011-Court-Baseline-Report.pdf

18 Month Target set by PJDP (June 2012)

- 1 The majority of PICs have judicial and **court baseline data** against which changes can be measured, and
- 2 A **Regional Justice Performance Framework** with Chief Justices that identifies a number of justice performance indicators that courts will work to achieve with capacity building support from PJDP.

30 Month Target set by PJDP (June 2013)

Increased transparency in relation to court performance across the Pacific region with the publication of a **2012 PJDP Trend Report** including Year 2 court performance trend data for the 14 participating PICs that can be compared with the data presented in the **2011 PJDP Court Baseline Report**.

54 Month Target set by PJDP (June 2015)

Timely, accurate and comprehensive annual court reports published in up to six Pacific Island Countries (PICs) that include relevant court data as well as court user feedback on barriers to accessing, satisfaction with, and confidence in the courts. Publication of a **2014 PJDP Trend Report** including Year 4 court performance trend data for 14 participating PICs that can be compared with the data presented in the **2011 PJDP Court Baseline Report**.

At the National Coordinators Leadership Meeting held in the Cook Islands in June 2011, the key court performance areas were considered and a list developed that was then sent to Chief Justices for their review and comment. The 15 court performance indicators cover:

- 1 **Case management issues. PJDP judicial counterparts selected the following four indicators:**
 - Case finalisation or clearance rate.
 - Average duration of a case from filing to finalisation.
 - The percentage of appeals.
 - Overturn rate on appeal.
- 2 **Affordability and Accessibility for court clients.**
 - Percentage of cases that are granted a court fee waiver.
 - Percentage of cases disposed through a circuit court.
 - Percentage of cases where a party receives legal aid.
- 3 **Published procedures for the handling of feedback and complaints.**
 - Documented process for receiving and processing a complaint that is publicly available.
 - Percentage of complaints received concerning a judicial officer.
 - Percentage of complaints received concerning a court staff member.
- 4 **Human Resources.**
 - Average number of cases per judicial officer.
 - Average number of cases per member of court staff.
- 5 **Transparency.**
 - Court produces or contributes to an Annual Report that is publicly available.
 - Information on court services is publicly available.
 - Court publishes judgments on the Internet (own website or on PacLII).

The PJDP Partner Courts ability to report on these 15 indicators is summarised in Tables A and B that follow.

Table A Percentage of the 14 PJDP countries that report on the indicator in the 2011 Baseline year and 2014 fourth year of trend data.

Indicator	Percentage of the 14 PJDP countries that report on the indicator in the 2011 Baseline Report	Percentage of the 14 PJDP countries that report on the indicator in the 2014 Trend Report
1 Clearance rate	64% (9 of 14)	86% (12 of 14)
2 Average duration of a case from filing to finalisation	14% (2 of 14)	71% (10 of 14)
3 The percentage of appeals	57% (8 of 14)	86% (12 of 14)
4 Overturn rate on appeal	21% (3 of 14)	79% (11 of 14)
5 Percentage of cases that are granted a court fee waiver	21% (3 of 14)	86% (12 of 14)
6 Percentage of cases disposed through a circuit court	50% (7 of 14)	71% (10 of 14)
7 Percentage of cases where a party receives legal aid	14% (2 of 14)	57% (8 of 14)
8 Documented process for receiving and processing a complaint that is publicly available	21% (3 of 14)	43% (6 of 14)
9 Percentage of complaints received concerning a judicial officer	21% (3 of 14)	79% (11 of 14)
10 Percentage of complaints received concerning a court staff member	14% (2 of 14)	79% (11 of 14)
11 Average number of cases per judicial officer	57% (8 of 14)	86% (12 of 14)
12 Average number of cases per member of court staff	43% (6 of 14)	84% (12 of 14)
13 Court produces or contributes to an Annual Report that is publicly available in the following year	7% (1 of 14)	71% (10 of 14)
14 Information on court services is publicly available	29% (4 of 14)	64% (9 of 14)
15 Court publishes judgments on the Internet (court website or the Pacific Legal Information Institute)	93% (13 of 14)	93% (13 of 14)



5 or less PJDP countries can report on the indicator.



6–9 PJDP countries can report on the indicator.



10 or more PJDP countries can report on the indicator.

Table B 14 PJDP countries that currently report on the 15 indicators

PJDP Countries		Cook Islands	FSM	Kiribati	Marshall Islands	Nauru	Niue	Palau
2011 Baseline Report		1	1	4	14	2	1	11
2012 Trend Report		10	6	5	15	2	12	14
2014 Trend Report		12	12	15	15	2	12	15
Type	Indicator							
1	Case Management Information Case finalisation/clearance rate							
2	Case Management Information Average duration of a case							
3	Appeals The percentage of appeals							
4	Appeals Overturn rate on appeal							
5	Access Percentage of cases that are granted a court fee waiver							
6	Access Percentage of cases disposed through a court circuit							
7	Access Percentage of cases where party receives legal aid							
8	Complaints Documented process for receiving and processing a complaint that is publicly available							
9	Complaints Percentage of complaints received concerning a judicial officer							
10	Complaints Percentage of complaints received concerning a court staff member							
11	Human Resources Average number of cases per judicial officer							
12	PacLII Average number of cases per court staff							
13	Judicial Transparency Court procedures or contributes to an Annual Report that is publicly available							
14	Judicial Transparency Information on court services is publicly available							
15	Judicial Transparency Judgments on PacLII							



Can report on the indicator



Cannot report on the indicator/judgments online but not for the previous 2 years



Judgments online but not available for the previous year/produces an Annual Report but not clear how the public can access it.

PJDP Countries		PNG	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu	
2011 Baseline Report		6	1	3	5	5	9	6	
2012 Trend Report		3	5	3	10	12	1	6	
2014 Trend Report		11	12	11	12	15	2	13	
Type	Indicator								
1	Case Management Information	Case finalisation/clearance rate							
2	Case Management Information	Average duration of a case							
3	Appeals	The percentage of appeals							
4	Appeals	Overturn rate on appeal							
5	Access	Percentage of cases that are granted a court fee waiver							
6	Access	Percentage of cases disposed through a court circuit							
7	Access	Percentage of cases where party receives legal aid							
8	Complaints	Documented process for receiving and processing a complaint that is publicly available							
9	Complaints	Percentage of complaints received concerning a judicial officer							
10	Complaints	Percentage of complaints received concerning a court staff member							
11	Human Resources	Average number of cases per judicial officer							
12	Human Resources	Average number of cases per court staff							
13	Judicial Transparency	Court procedures or contributes to an Annual Report that is publicly available							
14	Judicial Transparency	Information on court services is publicly available							
15	Judicial Transparency	Judgments on PaCLII							

Can report on the indicator

Cannot report on the indicator/judgments online but not for the previous 2 years

Judgments online but not available for the previous year/produces an Annual Report but not clear how the public can access it.



The 15 indicators selected were chosen by PJDP judicial counterparts as they represented essential data that jurisdictions, whether large or small, should ideally have the capacity to collect, analyse and present in their annual reports. For several of these indicators, jurisdictions that were able to capture data disaggregated by the gender of court clients or their age (juvenile/non-juvenile clients) were requested to present this additional level of information. However, as will be seen in Chapter 4, most courts do not capture gender and age disaggregated data or do not present this information in their annual reports. Over time, the PJDP judicial counterparts may wish to extend this list of indicators in line with the ability of more courts to collect, analyse and report on court performance data in more complex ways. However, the initial 15 Cook Island indicators will allow courts and external court stakeholders in the Pacific region to observe whether the capacity of courts to collect, analyse and report on court performance data is strengthened over the implementation period for PJDP and beyond.

The collection and reporting of data related to key court performance indicators and the regular review of external court stakeholder perceptions of court service through surveys or court stakeholder dialogues is an important first step for all courts. Once court performance data has been collected and evaluated, it is then possible for courts to set meaningful national performance standards for their court. These performance standards may relate to timeliness in the disposal of different types of cases, quality of service experienced by clients through the court registry, or quality of judgments. Without first understanding how a court is performing, through the collection and analysis of performance data for a number of years, it is unlikely that a court will set a realistic and achievable performance standard. The process of setting national performance standards, in consultation with judges and court staff, is important as it establishes the level of service that the court aims to deliver and that the public can expect from the court.

Courts that display high levels of judicial transparency and a commitment to improving the delivery of their court services present annual and trend court performance data in their annual reports as well as a statement on whether the court has met their performance standards or targets for the year. Courts in the Federated States of Micronesia and the Republic of the Marshall Islands present their court performance standards and data on whether these have been achieved in their Annual Reports.

Ownership, Results, Trust and Accountability

These four principles underpin many of the international and regional statements on judicial integrity and independence. Annual reports represent the vehicle through which courts take **ownership** of the work they have completed during the year and present to the public their annual **results** against key performance indicators. In doing so they win the **trust** of the public and are **accountable** to the citizens they serve.

Regional Justice Performance Framework

The Chief Justices at their Leadership Meeting in Samoa in March 2012 endorsed the following Regional Justice Performance Framework:

The Chief Justices of the countries participating in the Pacific Judicial Development Programme agree to progressively build the capacity of their judicial and court staff colleagues so as to publish court Annual Reports:

- I. on national and Pacific regional websites,
- II. within one year of the end of the reporting period,
- III. that include:
 - a. court performance data and results against the 15 indicators and Recommendations presented in the PJDP Baseline Report,
 - b. court performance standards for each level of court and annual results against those standards,
 - c. a summary of the key findings from any court stakeholder/potential court user surveys and dialogues that have taken place in the previous year,
 - d. financial statements, including Court budget execution statements.



Trend Changes: 2011 – 2015

When PJDP embarked on the Court Annual Reporting activity in 2011, three jurisdictions had sought assistance under PJDP with the aim of improving their court performance reporting through Annual Reports. These jurisdictions were Palau, Papua New Guinea and Tokelau. What emerged over a period of four years was a willingness from the majority of PJDP jurisdictions to embrace the idea of Annual Reporting in some form or other through using the Court Annual Reporting Toolkit. More than a dozen tools were developed under this activity and are now available on the PJDP website. Some reflections on this journey are noted here:

In the baseline year of 2011, only the judiciaries of the Marshall Islands and Vanuatu published an annual report each year and only the Marshall Islands judiciary produced an Annual Report that was publicly available through the court's website or PaCLII.

In 2015, judiciaries in 12 of the 14 PJDP countries produce or contribute to an Annual Report. Ten of the 14 PJDP countries (71%) produced or contributed to an Annual Report⁷ that is publicly available in the year immediately following the reporting period.

In the baseline year of 2011, only the judiciaries of the Marshall Islands and Palau were able to report on ten or more of the Cook Island indicators. In 2015, 12 of the 14 PJDP countries are able to report on ten or more of the Cook Island indicators.

From 2011–2014, seven of the 14 PJDP judiciaries issued their first judiciary Annual Report: Cook Islands, FSM, Kiribati, Niue, Palau, Tokelau and Tonga. During this time the judiciaries in the Cook Islands, Niue and Tonga commenced the practice of issuing a separate Annual Report that provided a much greater level of court performance information than had previously been included in the annual reports prepared by the Ministry of Justice or Department of Justice, Lands and Survey in their country.

Extensive use of the Court Annual Reporting Toolkit by PJDP countries: One of the approaches under PJDP was to respond to the needs of particular jurisdictions with tailored in-country technical assistance and then subsequently develop a Toolkit that may be of use to other jurisdictions within PJDP and beyond. Many of the PJDP jurisdictions have commented that they have used the Court Annual Reporting Toolkit and the tools like the Excel Chart Creator when drafting recent Annual Reports.

Increased presentation of Trend Data in Annual Reports: The PJDP Excel Chart Creator was a tool created by PJDP in late 2013 and allows courts to enter trend data over a number of years on most of the Cook Island indicators. Recent Annual Reports from a number of PJDP judiciaries include trend data presented in clear charts and tables using the PJDP Excel Chart Creator Tool.

One court jurisdiction leading change within a country: In Niue, the drive and determination of a registration officer in the Land Division led to an Annual Report being published for the Land Division of the High Court in 2012–2013. This experience led to all divisions of the Niue High Court contributing to an Annual Report in 2013–2014. In Samoa, the Chief Justice and judge for the new Family Court have decided to produce regular reports for the Family Court and that this will hopefully be the first step in the Samoan judiciary as a whole producing an Annual Report.

⁷ Annual Report includes the Statements made by the Chief Justices of Kiribati and the Solomon Islands at the beginning of the new legal year that summarise the performance of the court in the previous year.



Gender disaggregated data on family law and family violence cases: In the baseline year of 2011, no Annual Report presented gender disaggregated data for any type of case. In the last four years, several PJDP jurisdictions have passed Family Protection Acts or other family violence legislation. The Court Annual Reporting Toolkit now contains a tool for the collection and presentation of data on family law and family violence cases. The Case Study on Palau in Part 5 of this Report shows how much has changed in the presentation of gender disaggregated data. Six of the Annual Reports reviewed for this 2014 Trend Report include gender disaggregated data (Cook Islands, Kiribati, Marshall Islands, Palau, PNG Magistrates Court and Vanuatu).

Juvenile disaggregated data: The United Nations Children's Fund (UNICEF) published baseline reports for Kiribati, Solomon Islands and Vanuatu in 2009, and Palau and the Republic of the Marshall Islands in 2013 and for the Federated States of Micronesia in 2014. A baseline report for Samoa is currently being prepared. When this work is complete, half of the PJDP countries will have benefited from a specialist baseline report reviewing the juvenile justice system. None of the six countries where the UNICEF Baseline Report has been completed has an information management mechanism across the juvenile justice sector including a case file management system to reduce delays and ensure efficient flow of cases through all stages of the justice system from arrest to adjudication, including a mechanism to flag and expedite all cases involving children. In 2015, **six of the 14 PJDP judiciaries** provide disaggregated data on juvenile justice cases: the Cook Islands, FSM, Palau, the Marshall Islands, Tokelau and Vanuatu.

Continued Commitment to Client Surveys and Feedback Mechanisms: Client satisfaction surveys allow judiciaries to understand the degree to which clients are satisfied with the services provided by the court and receive feedback on the areas where clients think the court could improve their service. Both Palau and the Republic of the Marshall Islands have undertaken regular client satisfaction surveys over the last two years and have published the results in their Annual Reports.

PJDP would like to thank the Chief Justices and National Coordinators for their support in contributing to this 2014 PJDP Court Trend Report. This report has been prepared with the assistance of the many Pacific and other parties referred to on page 2.

Key Findings and Recommendations

26 Key Findings and 24 Recommendations from the Baseline Report as updated by the 2014 Trend Report are set out below:

General Findings and Recommendations

Key finding	Recommendation
Socio-Economic Indicators of Disadvantage and Potential Barriers in Accessing the Courts	
<p>Key finding 1 Eleven of the fourteen PICs have had a basic needs poverty line calculated for their country. On average, a quarter of the population in each of these PICs has an income that falls below the basic needs poverty line for their country.</p> <p>Key finding 2 The cost of a civil case as a percentage of the weekly basic needs poverty line varies from 0% in the Federated States of Micronesia and Tokelau where there are no court fees to 413% in Vanuatu.</p>	<p>Recommendation 1 PJDP provide assistance to build the capacity of courts in the region to report on the type of barriers individuals can face in accessing the courts and the strategies developed by courts to assist individuals to overcome these barriers.</p>
Data Collection Methodology	
<p>Key finding 3 Two PJDP courts present their court performance standards and data on whether these have been achieved in their Annual Report.⁸</p>	<p>Recommendation 2 PJDP provide assistance to build the capacity of the selected PIC courts to collect and analyse court performance data against the 15 indicators presented in the 2011 PJDP Court Baseline Report as well as 2012 and 2014 PJDP Court Trend Reports. This court performance data will ideally be disaggregated by the gender and age of court clients.</p> <p>Recommendation 3 PJDP provide assistance to build the capacity of the selected PIC courts to analyse the justice needs within their country to better understand what matters to actual and potential court users in the delivery of quality court services through the use of client and court stakeholder surveys and dialogues.</p>

⁸ The Republic of the Marshall Islands presented the court's goal in relation to clearance rates for the first time in its 2011 annual report.

Key finding	Recommendation
Juvenile Disaggregated Data and Indicators	
<p>Key finding 4 In the six PJDP countries where UNICEF has completed its baseline report, none have an information management mechanism across the sector including a case file management system to reduce delays and ensure efficient flow of cases through all stages of the justice system from arrest to adjudication, including a mechanism to flag and expedite all cases involving children.</p> <p>Key finding 5 In the Baseline Report, only the Marshall Islands provided disaggregated data on juvenile justice cases in its Annual Report. In 2015, six of the 14 PJDP judiciaries provide disaggregated data on juvenile justice cases in their Annual Report: the Cook Islands, FSM, Palau, the Marshall Islands, Tokelau and Vanuatu.</p>	<p>Recommendation 4 In coordination with the UNICEF Pacific Regional Office, PJDP will work with courts to build their capacity to collect and present in their Annual Reports disaggregated data on children's cases, including the outcome of the case and the type of sentence that may be imposed.</p>
Gender Disaggregated Data and Indicators	
<p>Key finding 6 In the 2011 PJDP Baseline Report, no PJDP jurisdiction presented gender disaggregated data for any type of case in its Annual Report. In the last four years, several PJDP jurisdictions have passed Family Protection Acts or other family violence legislation. Six of the Annual Reports reviewed for this 2014 Trend Report include gender disaggregated data (Cook Islands, Kiribati, Marshall Islands, Palau, PNG Magistrates Court and Vanuatu). Data are particularly relevant for greater understanding of family law and family violence cases.</p> <p>Key finding 7 All 14 of PJDP countries (100%) are able to provide data on the gender of their judges and magistrates. In particular, the Republic of Palau and the Federated States of Micronesia have an equal number of male and female Supreme Court justices and Kiribati, Samoa and Vanuatu an equal number of magistrates.</p>	<p>Recommendation 5 There is a global movement to End Violence against Women and Girls that has been endorsed by governments across the Pacific. Annual Reports of courts should include data on the number of domestic violence cases and protection order applications commenced by women each year, an average duration for the finalisation of these cases and an indication of whether the case is resolved in favour of the applicant party for the protection order.</p> <p>Recommendation 6 Annual Reports of Courts list the judicial officers that have been working with the Court during the year so that data on women's participation as judicial officers in Pacific countries can be collected.</p>

Court Performance Key Findings and Recommendations

Key finding	Recommendation
<p>Indicator 1: Case Management Clearance Rate: The result against this indicator is obtained by dividing cases finalised by cases filed.</p>	
<p>Key finding 8 12 of 14 PJDP countries (86%) are able to present data in a form that will permit a clearance rate to be calculated for one or more level of court jurisdiction. In the 2011 Baseline Report, 9 of 14 PJDP countries (64%) were able to present data in a form that will permit a clearance rate to be calculated. There is a trend improvement in this indicator over the duration of the Pacific Judicial Development Programme.</p> <p>Key finding 9 The Republic of the Marshall Islands is the only court that presents a goal in relation to clearance rates in its annual report.</p>	<p>Recommendation 7 Courts present data in their annual report on the number of cases filed and the number of cases finalised in the previous court reporting cycle. This will allow judges and court staff to track clearance rates for different types of cases being heard at different levels in the national courts.</p> <p>Recommendation 8 Where courts have developed goals or standards for the hearing of cases this should be included in the Annual Report with information on whether these goals have been met.</p>
<p>Indicator 2: Case Management Average Duration of a Case: The result against this indicator is obtained by totalling the days for each case from the date the case is filed to the date it is finalised and then dividing this by the number of cases finalised.</p>	
<p>Key finding 10 Ten PJDP countries (71%) are able to collect data on the average duration of a case in their court. In the 2011 Baseline Report, 2 of 14 PJDP countries (14%) were able to present data on the average duration of a case. There is a trend improvement in this indicator over the duration of the Pacific Judicial Development Programme.</p> <p>Key finding 11 The Republic of the Marshall Islands and Federated States of Micronesia are the only PJDP jurisdictions to refer to a time standard for the hearing of different types of cases in their 2014 Annual Reports.</p>	<p>Recommendation 9 Courts present data in their annual report on the average duration of different types of cases (e.g. civil, criminal, small claims, family/ divorce, juvenile cases etc.) finalised in the previous court reporting cycle.</p> <p>Recommendation 10 That courts include in their annual report the time standard within which they aim to complete different types of cases and provide data on the percentage of cases that have been completed within the time standard set by the court.</p>

Key finding	Recommendation
<p>Indicator 3: Case Management</p> <p>The percentage of appeals: The result against this indicator is obtained by dividing the number of cases appealed to a higher court in which the lower court decision is overturned in whole or in part by the number of cases finalised in the level of court jurisdiction from which the appeal is made.</p>	
<p>Key finding 12</p> <p>12 of the 14 PJDP countries (86%) were able to collect data on the number of cases appealed as a percentage of the number of cases filed in a particular year for one or more level of court jurisdiction. In the 2011 Baseline Report, eight of the 14 PJDP countries (57%) were able to collect data on the number of cases appealed as a percentage of the number of cases filed in a particular year. There is a trend improvement in this indicator over the duration of the Pacific Judicial Development Programme.</p>	<p>Recommendation 11</p> <p>PJDP countries present data in their annual report on the number of cases from each level of court that are the subject of an appeal each year. This indicator provides courts with estimates from year to year of the percentage of trial level cases that will be referred to appeal courts. This allows courts to estimate the level of human and financial resources to deal adequately with appeals from the trial caseload.</p>
<p>Indicator 4: Case Management</p> <p>Overturn rate on appeal: The result against this indicator is obtained by dividing the number of appeal cases in which the lower court decision is overturned by the total number of appeals.</p>	
<p>Key finding 13</p> <p>11 of 14 PJDP countries (79%) are able to collect data on the percentage of appeal cases in which the lower court decision is overturned by the appellate court. In the 2011 Baseline Report, three of 14 PJDP countries (21%) (Republic of the Marshall Islands, the Republic of Palau and Tuvalu) were able to collect data on the percentage of appeal cases in which the lower court decision is overturned by the appellate court. There is a trend improvement in this indicator over the duration of the Pacific Judicial Development Programme.</p>	<p>Recommendation 12</p> <p>All appeal cases should be published online through PacLII or national court websites in order to be able to report on the overturn rate on appeal.</p>

Key finding**Recommendation****Indicator 5: Accessibility of Courts**

Percentage of cases that are granted a court fee waiver: The result against this indicator is obtained by dividing the number of cases that are granted a court fee waiver by the total number of cases filed.

Key finding 14

12 of the 14 PJDP countries (86%) could present data on the percentage of cases that were granted a court fee waiver. In all other courts, it is unclear from publicly accessible reports whether there is (i) a court fee waiver process or (ii) data are collected on the number of cases in which the court fee is waived. In the 2011 Baseline Report, three of the 14 PJDP countries (21%) could present data on the percentage of cases that were granted a court fee waiver. There is a trend improvement in reporting on this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation 13

With approximately one quarter of the population in the PJDP PICs having an income that falls below the basic needs poverty line in that country, Courts should provide clear documentation for all court users on the process for waiving a court fee in civil cases. Courts should also include in the Annual Report data on the number of cases in which fees are waived.

Indicator 6: Accessibility of Courts

Percentage of cases finalised through a circuit court: The result against this indicator is obtained by dividing the number of cases finalised through a circuit court by the total number of cases finalised.

Key finding 15

Ten of 14 PJDP courts (71%) are able to provide data on the percentage of cases heard through a circuit court. In five of the 11 countries that are able to provide data, no circuit courts are held. In the 2011 Baseline Report, seven of 14 PJDP courts (50%) were able to provide data on the percentage of cases heard through a circuit court. There is a trend improvement in this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation 14

With approximately one quarter of the population in the PJDP PICs having an income that falls below the basic needs poverty line in that country, courts should provide clear information for all court users on the process for registering and hearing cases through circuit courts. Courts should also include in the Annual Report data on the number of cases heard through a circuit court.

Indicator 7: Accessibility of Courts

Percentage of cases where a party receives legal aid: The result against this indicator is obtained by dividing the number of cases where a party receives legal aid by the total number of cases filed.

Key finding 16

Eight PJDP countries (57%) collect data on the percentage of cases in which a party receives legal aid. In the 2011 Baseline Report, two of 14 PJDP courts (14%) were able to provide data on the percentage of cases heard through a circuit court. There is a trend improvement in reporting on this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation 15

With approximately one quarter of the population in the PJDP PICs having an income that falls below the basic needs poverty line in that country, PJDP courts should collect information at the time the case is filed on whether a party will receive legal aid. This is particularly important in criminal matters as many PJDP jurisdictions require that a defendant be represented by a lawyer in serious criminal matters or where the defendant is a juvenile.

Key finding	Recommendation
<p>Indicator 8: Complaint Handling and Feedback</p> <p>Documented process for receiving and processing a complaint that is publicly available: To show results against this indicator the process for receiving and processing a complaint should be accessible to the public.</p>	
<p>Key finding 17</p> <p>Six PJDP countries (43%) have a documented process for receiving and processing a complaint. Three other PJDP countries have a documented process for receiving and processing a complaint in relation to court staff members that are public servants. In the 2011 Baseline Report, three of 14 PJDP courts (21%) had a documented process of receiving and processing a complaint. There is trend improvement for this indicator over the duration of the Pacific Judicial Development Programme.</p>	<p>Recommendation 16</p> <p>PJDP countries that have developed a judicial code of conduct or have another process for receiving complaints related to judicial service should make these complaint handling processes publicly available on their websites, the PaCLII website and the court noticeboard. PJDP Courts should also include in their annual reports a section on any complaints and feedback received and how the court has responded.</p>
<p>Indicator 9: Complaint Handling and Feedback</p> <p>Percentage of complaints received concerning a judicial officer: The result against this indicator is obtained by dividing the number of complaints filed concerning a judicial officer by the total number of cases filed.</p>	
<p>Key finding 18</p> <p>11 PJDP countries (79%) presented information on the percentage of complaints received concerning a judicial officer. In the 2011 Baseline Report, three PJDP countries (21%) (Republic of the Marshall Islands, Republic of Palau and Vanuatu) presented information on the percentage of complaints received concerning a judicial officer. There is a trend improvement in this indicator over the duration of the Pacific Judicial Development Programme.</p>	<p>Recommendation 17</p> <p>In court annual reports, a section should refer the public to the judicial complaints procedure and include data on the number of judicial complaints received in that year and how they were dealt with. Trend data over a five-year period in relation to this indicator will allow the public to observe whether judicial complaints are rising or falling. This section of the annual report can also educate the public that if a party is dissatisfied with the outcome of any judicial decision this can only be dealt with through the appeals process.</p>
<p>Indicator 10: Complaint Handling and Feedback</p> <p>Percentage of complaints received concerning a court staff member: The result against this indicator is obtained by dividing the number of complaints received concerning a court staff member by the total number of cases filed.</p>	
<p>Key finding 19</p> <p>11 PJDP countries (79%) presented information on complaints received concerning a court staff member. In the 2011 Baseline Report, only two PJDP countries (14%) (Republic of the Marshall Islands and Vanuatu) presented information on the percentage of complaints received concerning a court staff member. There is a trend improvement in this indicator over the duration of the Pacific Judicial Development Programme.</p>	<p>Recommendation 18</p> <p>In court annual reports, a section should refer the public to the complaints procedure for members of court staff and include data on the number of complaints related to court staff received in that year and how they were dealt with. Trend data over a five-year period in relation to this indicator will allow the public to observe whether the number of court staff complaints is rising or falling.</p>

Key finding	Recommendation
<p>Indicator 11: Judicial Resources</p> <p>Average number of cases per judicial officer: The result against this indicator is obtained by dividing the total number of cases filed by the number of judicial officers.</p>	
<p>Key finding 20</p> <p>12 of the 14 PJDP countries (86%) have one or more courts that are able to present data on the average number of cases for each judicial officer presiding in that court. In the 2011 Baseline Report, eight PJDP countries (57%) presented information on the average number of cases for each judicial officer. There is a trend improvement in this indicator over the duration of the Pacific Judicial Development Programme.</p>	<p>Recommendation 19</p> <p>PJDP courts should include information in their annual reports on both the number of cases filed and the number of judicial officers that were hearing cases in a particular year. Ideally, trend data over a five-year period will be presented in relation to the ratio of cases to judicial officers. These data are relevant to other performance indicators such as clearance rates (indicator 1), average duration of cases (indicator 2) and percentage of complaints against judicial officers (indicator 9).</p>
<p>Indicator 12: Court Staff Resources</p> <p>Average number of cases per court staff: The result against this indicator is obtained by dividing the total number of cases filed by the number of court staff.</p>	
<p>Key finding 21</p> <p>12 of the 14 PJDP countries (86%) have one or more court that is able to present data on the average number of cases for each court staff/ registry staff member involved in the processing of cases from the date of filing to finalisation. In the 2011 Baseline Report, six PJDP countries (43%) presented information on the average number of cases for each court staff member. There is a trend improvement in this indicator over the two years of the Pacific Judicial Development Programme.</p>	<p>Recommendation 20</p> <p>PJDP courts should include information in their annual reports on both the number of cases filed and the number of court registry staff that are involved in the processing of cases from the date of filing to finalisation in a particular year. Ideally, trend data over a five-year period will be presented in relation to the ratio of cases to registry staff. These data are relevant to other performance indicators such as clearance rates (indicator 1), average duration of cases (indicator 2) and percentage of complaints against court staff members (indicator 10).</p>
<p>Indicator 13: Transparency</p> <p>Court produces or contributes to an Annual Report that is publicly available in the following year: This indicator is demonstrated through the publication of an annual report in the year immediately following the year that is the subject of the annual report.</p>	
<p>Key finding 22</p> <p>In 2015, judiciaries in 12 of the 14 PJDP countries produce or contribute to an Annual Report. Ten of the 14 PJDP countries (71%) produced or contributed to an Annual Report that is publicly available in the year immediately following the reporting period. In the 2011 Baseline Report, the Republic of the Marshall Islands was the only judiciary of the 14 PJDP countries that produced its annual report in the year immediately following the reporting period and published it on the Judiciary's web site. There is a trend improvement in this indicator over the duration of the Pacific Judicial Development Programme.</p> <p>Key finding 23</p> <p>From 2011–2015, seven of the 14 PJDP judiciaries (50%) issued their first judiciary Annual Report: Cook Islands, FSM, Kiribati, Niue, Palau, Tokelau and Tonga.</p>	<p>Recommendation 21</p> <p>PJDP continue to work with PJDP judiciaries to assist with the publication of quality annual reports that provide court performance information to a range of national and international court stakeholders. These annual reports should be published on the PaCLII website as well as the court's own website where these exist.</p>

Key finding	Recommendation
<p>Indicator 14: Transparency Information on court services that is publicly available.</p>	
<p>Key finding 24 Nine of the 14 PJDP countries (64%) present information on court services on their websites or through the provision of brochures. In the 2011 Baseline Report, 4 of the 14 PJDP countries presented information on court services on their websites. There is a trend improvement in this indicator over the duration of the Pacific Judicial Development Programme.</p>	<p>Recommendation 22 With approximately one quarter of the population in the PJDP PICs having an income that falls below the basic needs poverty line in that country, and with the majority of court clients appearing in court without legal representation, it is important for Courts to consider how best to convey information on court services to potential court users. The internet is an effective way of presenting information to a range of court stakeholders who may assist disadvantaged groups to access the courts. However, direct engagement with potential court users through posters in health clinics and government offices, radio bulletins or other means is also important as a way of informing potential clients of how they may access the courts for their legal issues.</p>
<p>Indicator 15: Transparency Court publishes judgments on the Internet (through PacLII or their own website).</p>	
<p>Key finding 25 13 of the 14 PJDP countries (93%) publish judgments on the internet using the Pacific Legal Information Institute (PacLII) website with 11 of the 14 countries (79%) publishing judgments online for the previous year. In the 2011 Baseline Report, 13 of the 14 PJDP countries (93%) published judgments on the internet using the Pacific Legal Information Institute (PacLII) website with nine of the 14 countries (64%) publishing judgments online in the previous year. There is a trend improvement in this indicator over the duration of the Pacific Judicial Development Programme.</p> <p>Key finding 26 Ten of the 14 PJDP countries (71%) published decisions from the magistrates or district courts as well as the higher courts. The Marshall Islands and Vanuatu also publish decisions of their Traditional Rights Court and Island Courts on the PacLII website.</p>	<p>Recommendation 23 PJDP to encourage the publication of judgments from all levels of court on PacLII or national websites to increase understanding in the Pacific region and beyond of the work of Pacific courts.</p> <p>Recommendation 24 Chief Justices, at their Leadership Workshop held in October, 2011 in Vanuatu, noted in their concluding resolutions from that meeting that the maintenance of PacLII is essential to the integrity of the judicial systems in the Pacific. To that end, the Chief Justices urge that the PacLII Foundation be funded on an ongoing basis as proposed by the independent review of PacLII.</p>

1 Goal of the Pacific Judicial Development Programme

PJDP goal

Strengthened governance and rule of law in Pacific Island Countries through enhanced access to justice and professional judicial officers who act independently according to legal principles.

At the outset of PJDP it was determined that:

- 1 No judicial and court baseline data exist that can be applied across the region.
- 2 There is no clear understanding about how judicial and court baseline data can be used to improve the administration of justice across the region.
- 3 There are an unquantified number of marginalised/disadvantaged prospective court users facing a range of barriers in accessing the courts.

18 Month Target set by PJDP (June 2012)

- 1 The majority of PICs have judicial and **court baseline data** against which changes can be measured, and
- 2 a **Regional Justice Performance Framework** with Chief Justices that identifies a number of justice performance indicators that courts will work to achieve with capacity building support from PJDP.

30 Month Target set by PJDP (June 2013)

Increased transparency in relation to court performance across the Pacific region with the publication of a **2012 PJDP Trend Report** including Year 2 court performance trend data for the 14 participating PICs that can be compared with the data presented in the **2011 PJDP Court Baseline Report**.

54 Month Target set by PJDP (June 2015)

Timely, accurate and comprehensive annual court reports published in up to six Pacific Island Countries that include relevant court data as well as court user feedback on barriers to accessing, satisfaction with, and confidence in the courts. Publication of a **2014 PJDP Trend Report** including Year 4 court performance trend data for 14 participating PICs that can be compared with the data presented in the **2011 PJDP Court Baseline Report**.



The Judicial Monitoring and Evaluation (JME) activity within PJDP (later renamed the Court Annual Reporting or CAR activity) has worked with PJDP jurisdictions since June 2011 to develop a methodology for the collection of court performance data. Chapter 2 of this report explores the baseline and trend report methodology developed with the PJDP countries. Chapter 3 provides a snapshot of selected development indicators across the PJDP jurisdictions to better understand the scope of the problem of disadvantaged potential court users. Chapter 4 compares Year 4 trend court performance data for the 15 “Cook Island” Court Performance Indicators against the baseline data collected in the 14 PJDP jurisdictions. Chapter 5 presents three case studies surrounding the collection and reporting on gender disaggregated data, and PJDP Partner Courts progress in achieving disability inclusiveness. Chapter 6 considers the issue of juvenile disaggregated data and indicators and Chapter 7 considers gender disaggregated data and indicators for the 14 PJDP countries. Chapter 8 sets out the Regional Justice Performance Framework and presents data against this Framework for the 2011 Baseline year and trend data collected from the 14 PJDP partner courts in year four.

2 Methodology for the Court Baseline Report, 2012 and 2014 Court Trend Reports

4 Court Administration

4.3 *The judiciary should endeavour to utilise information and communication technologies with a view to strengthening the transparency, integrity and efficiency of justice.*

4.4 *In exercising its responsibility to promote the quality of justice, the judiciary should, through case audits, surveys of court users and other stakeholders, discussion with court-user committees and other means, endeavour to review public satisfaction with the delivery of justice and identify systemic weaknesses in the judicial process with a view to remedying them.*

4.5 *The judiciary should regularly address court users' complaints, and publish an annual report of its activities, including any difficulties encountered and measures taken to improve the functioning of the justice system.*

5 Access to Justice

5.1 *Access to justice is of fundamental importance to the rule of law. The judiciary should, within the limits of its powers, adopt procedures to facilitate and promote such access.*

2010 Measures for the Effective Implementation of the Bangalore Principles of Judicial Conduct

Judges, court administrators and other stakeholders interacting with courts can monitor and evaluate⁹ court performance at a number of levels including at the level of:

- an individual court,
- all courts within a state, province or sub-national region,
- all courts within a country,
- courts in a region.

The aim of the PJDP JME activity is to support and develop the monitoring and evaluation capacity of judiciaries across 14 PICs in the Pacific region.

At the National Coordinators Leadership Meeting held in the Cook Islands in June 2011, the key court performance areas were considered and a list developed that was then sent to Chief Justices for their review and comment. Fourteen indicators of court performance were outlined during these exchanges and a further 15th indicator added following the Leadership Workshops of Chief Justices and National Coordinators held in Vanuatu in October 2011.

⁹ "Monitoring" is the routine collection of information on the implementation and performance of an organisation through record-keeping, reporting and observation, to inform management decisions. "Evaluation" is the periodic review of the effectiveness, efficiency and results of the work of an organisation. (Adapted from AusAID Office of Development Effectiveness Law & Justice Evaluation.)

The Cook Island Indicators

The 15 court performance indicators cover:

- 1 Case management issues.** PJDP judicial counterparts selected the following four indicators:
 - Case finalisation or clearance rate.
 - Average duration of a case from filing to finalisation.
 - The percentage of appeals.
 - Overturn rate on appeal.
- 2 Affordability and Accessibility for court clients.** PJDP judicial counterparts selected the following three indicators:
 - Percentage of cases that are granted a court fee waiver.
 - Percentage of cases disposed through a circuit court.
 - Percentage of cases where a party receives legal aid.
- 3 Published procedures for the handling of feedback and complaints.** PJDP judicial counterparts selected the following three indicators:
 - Documented process for receiving and processing a complaint that is publicly available.
 - Percentage of complaints received concerning a judicial officer.
 - Percentage of complaints received concerning a court staff member.
- 4 Human Resources.** PJDP judicial counterparts selected the following two indicators:
 - Average number of cases per judicial officer.
 - Average number of cases per member of court staff.
- 5 Transparency.** PJDP judicial counterparts selected the following three indicators:
 - Court produces or contributes to an Annual Report that is publicly available.
 - Information on court services is publicly available.
 - Court publishes judgments on the Internet (own website or on the Pacific Legal Information Institute website).

The 15 indicators selected were chosen by PJDP judicial counterparts as they represented essential data that jurisdictions, whether large or small, should ideally have the capacity to collect, analyse and present in their annual reports. For several of these indicators, jurisdictions that were able to capture data disaggregated by the gender of court clients or their age (juvenile/non-juvenile clients) were requested to present this additional level of information. However, as will be seen in Chapter 4, most courts do not capture gender and age disaggregated data or do not present this information in their annual reports. Over time, the PJDP judicial counterparts may wish to extend this list of indicators in line with the ability of more courts to collect, analyse and report on court performance data in more complex ways. However, the initial 15 indicators contained will allow courts and external court stakeholders in the Pacific region to observe whether the capacity of courts to collect, analyse and report on court performance data is strengthened over the implementation period for PJDP and beyond.

The Courts' own statements of their goal/mission/vision set out in the opening pages of this Trend Report reflect the qualities that are commonly considered to be integral to the judicial function. The 15 indicators present an overview of court performance against these core or essential characteristics of the judicial function. These are summarised in the following table drawing on three statements that relate to principles of judicial conduct and court excellence:

Table 2.1 Court Performance Indicators and Principles of Judicial Conduct

	International Framework for Court Excellence	Bangalore Principles of Judicial Conduct (and the Implementation Measures)	Suva Statement on the Principles of Judicial Independence and Access to Justice
Equality before the law	✓	✓	✓
Fairness	✓	✓	✓
Impartiality	✓	✓	✓
Independence of decision-making	✓	✓	✓
Competence	✓	✓	
Integrity	✓	✓	
Transparency	✓	✓	
Accessible and affordable justice	✓	✓	✓
Timeliness	✓	✓	
Certainty	✓		

Collecting and analysing court performance data

Once the 15 indicators were selected by the PJDP court counterparts, two main methodologies were used to collect and analyse court performance data:

- 1 PJDP courts collecting data on the 15 Cook Island indicators and working with the JME Adviser to clarify any issues related to the data, and
- 2 Republic of Palau, PNG and Tokelau, as PJDP jurisdictions that had requested capacity building support in relation to judicial monitoring and evaluation, working with the JME Adviser on the design and/ or analysis of court performance data obtained through external stakeholder dialogues or court user surveys.

Table 2.2 following illustrates how the two methodologies for collecting and analysing court performance data are able to provide an overview against the court performance indicators identified by the courts themselves.

Table 2.2 Methodologies for collecting and analysing court performance data

	Data Collection on 15 Cook Island indicators	External stakeholder discussions and surveys (conducted in Palau and PNG during 2011)
Equality before the law	✓ (Indicators 5 to 7)	✓
Fairness	✓	
Impartiality	✓	
Independence of decision-making	✓	
Competence	✓ (Indicators 3 to 4)	
Integrity	✓	
Transparency	✓ (Indicators 13 to 15)	✓
Accessible and affordable justice	✓ (Indicators 5 to 7)	✓
Timeliness	✓ (Indicators 1 to 2)	✓
Certainty	✓ (Indicators 3 to 4)	

Through working with Palau, PNG and Tokelau on improving their court performance reporting a Toolkit on Court Annual Reporting and more than a dozen tools were developed and are now available on the PJDP website¹⁰:

Table 2.3 Court Annual Reporting Tools

Tool	Function
1 Workshop Objectives, Session Outlines and Programme	For Courts organising workshops court staff and external court stakeholders on how to prepare an Annual Report.
2 PowerPoint presentation	For Courts organising workshops to develop Annual reports.
3 Annual Report Planning Template – A Guide to Who, What, When	A table that lists the different sections of the Annual Report and who will be responsible for drafting each section by when.
4 Annual Report Template	A template for the narrative text of an Annual Report incorporating the 15 Cook Island indicators.
5 Chart Creator – Excel Format	An Excel template that allows Courts to present trend data over several years for the 15 Cook Island indicators.
6 Chart Creator – Step by Step Guide	Step-by-step guide on how to use the Chart Creator (based on Excel 2010).
7 Guide to Making Charts for an Annual Report	Step-by-step guide on how to use the Chart Creator (based on Excel 2007).

10 <http://www.paclii.org/pjdp/pjdp-toolkits.html>

Table 2.3 Court Annual Reporting Tools (continued)

Tool		Function
8	Example of a Client Satisfaction Survey	Republic of Palau Judiciary Access and Fairness Questionnaire as adapted from the CourTools Access and Fairness Survey.
9	CourTools access and fairness survey	Courtools access and fairness survey and implementation guide.
10	Annual Indicator Questionnaire to Update Chart Creator	This questionnaire lists the annual data to be compiled and entered into the chart creator.
11	Data Collection Questionnaires for family law and family violence cases	Two questionnaires that focus on collecting gender disaggregated data on family law and family violence cases.
12	Tokelau data spread sheet (example average duration)	A simple spread sheet for collecting case data that will capture the duration of a case as well as age and gender disaggregated data.

The timeline for the development of the 2011 Baseline as well as the 2012 and 2014 Trend Reports for the PJDP partner countries are set out below.

Table 2.4 Timeline for 2011 Baseline Report, 2012 and 2014 Trend Reports

Date	Action
June/July 2011	15 Cook Island Indicators developed in consultation with Chief Justices and National Coordinators.
August 2011–January 2012	JME/CAR Adviser works with PIC counterparts on collection and analysis of data for the 15 indicators.
August 2011	First visit to Papua New Guinea – JME dialogue.
September 2011	Visit to Palau – JME dialogue.
October 2011	Discuss with Chief Justices and National Coordinators the Baseline report methodology at the Leadership Workshops in Vanuatu.
December 2011	Second visit to Papua New Guinea – JME dialogue.
February 2012	Submit Draft Baseline Report to Chief Justices and National Coordinators for their Feedback.
March 2012	Discuss Draft baseline report with Chief Justices and National Coordinators at the Leadership Workshops in Samoa.
April/May 2012	Revise and finalise baseline report and regional justice performance framework.
August 2012	Baseline Report published and distributed to partner PJDP judiciaries and other justice stakeholders across the Pacific.
August 2012– July 2013	JME/CAR Adviser works with PIC counterparts on collection and analysis of data for the 15 indicators.
April 2013	Discuss draft Court Trend Report with Chief Justices and National Coordinators at the leadership workshops in New Zealand. Version 1 of the Toolkit launched.
October 2014	2014 Trend Report discussed with National Coordinators at their Leadership Meeting in the Cook Islands as well as the timeline for completion. Version 2 of the Toolkit launched.
April 2015	Draft Executive Summary of the 2014 PJDP Trend Report presented to Chief Justices at their Leadership Meeting in Samoa and comments received and incorporated in the final version.
June 2015	2014 PJDP Trend Report finalised.

Why do courts conduct court user satisfaction surveys?

Excellent courts systematically evaluate the perceptions and needs of court users. The information will be used to improve the quality and processes provided by the courts.

Excellent court organisations systematically measure the level of public trust and confidence in the judiciary and court staff and compare the results with the public trust in other organisations.

Other measures of strong leadership include the ‘openness’ of the organisation and accountability. This means that courts regularly publish their performance results and provide information on the level of quality to the public.

(2008) International Framework for Court Excellence, pp 13 and 14.

It is increasingly common for courts to conduct client satisfaction surveys so that they better understand the perceptions of court clients on the level of service provided to them and the areas that clients would like to see improved. The 2008 International Framework for Court Excellence identifies seven areas of court excellence set out in Figure 2.1 below. Court stakeholder surveys allow a court to evaluate the Results dimension of the international framework (e.g. client needs and satisfaction/affordable and accessible court services/public trust and confidence).

Figure 2.1 2008 International Framework for Court Excellence seven areas of court excellence



A court user satisfaction survey provides a benchmark against which to measure future performance. It is therefore important that a court adopt a consistent approach to the methodology used in the court stakeholder surveys so that the findings from the surveys can be compared over a period of time.

When courts take the initiative and conduct court user/court stakeholder surveys this has a number of benefits for the court:

- 1 The court demonstrates to the public that it is interested in the views of (i) court clients on their perception of the actual level of service provided to them and the ways that court clients consider that these services could be improved, as well as, (ii) NGOs or other court stakeholders that represent individuals that are currently unable to access the services provided by the courts. The court presents itself as outward-looking and open to feedback, contrary to more common views of courts as being out of touch with the realities of life for most people in their country and the difficulties that they face in addressing the legal problems that they confront.
- 2 Experience from courts that conduct court user surveys suggests that court clients have a more positive view of the services provided by courts than the general public. In many countries, public opinion of the court system is shaped by media coverage of a relatively small number of high profile cases. This can result in the public having a misinformed and often negative image of the courts and the judicial system as a whole. Therefore, when the court publishes the findings from its client survey it is able to present a more positive picture of the workings of the court than that presented in other media.
- 3 The courts that have undertaken client surveys have received valuable suggestions from clients on ways that their services might be improved.

The collection and reporting of data related to key court performance indicators and the regular review of external court stakeholder perceptions of Court service through surveys or court stakeholder dialogues is an important first step for all courts. Once court performance data have been collected and evaluated it is then possible for courts to set meaningful national performance standards for their court. These performance standards may relate to timeliness in the disposal of different types of cases, quality of service experienced by clients through the court registry, or quality of judgments. Without first understanding how a court is performing, through the collection and analysis of performance data for a number of years, it is unlikely that a court will set a realistic and achievable performance standard. The process of setting national performance standards, in consultation with judges and court staff is important as it establishes the level of service that the court aims to deliver and that the public can expect from the court.

Courts that display high levels of judicial transparency and a commitment to improving the delivery of their court services present annual and trend court performance data in their annual reports as well as a statement on whether the court has met their performance standards or targets for the year.



Key finding

Two PJDP courts present their court performance standards and data on whether these have been achieved in their Annual Report.¹¹

Recommendation

PJDP provide assistance to build the capacity of the selected PIC courts to collect and analyse court performance data against the 15 indicators presented in the 2011 PJDP Court Baseline Report as well as 2012 and 2014 PJDP Court Trend Reports. This court performance data will ideally be disaggregated by the gender and age of court clients.

Recommendation

PJDP provide assistance to build the capacity of the selected PIC courts to analyse the justice needs within their country to better understand what matters to actual and potential court users in the delivery of quality court services through the use of client and court stakeholder surveys and dialogues.

¹¹ The Republic of the Marshall Islands presented the court's goal in relation to clearance rates for the first time in its 2011 annual report.

3

A Snapshot of Selected Development Indicators

Over the last 10 years, poverty in the Pacific continues to defy efforts of PICs to achieve the poverty targets of MDG 1. Women and girls are particularly vulnerable and normally over represented among the poor. Inequality is rising in the Pacific and reaching alarming levels in some countries. Human poverty is significantly higher than income poverty, particularly in rural areas. Economic and poverty reduction policies have focused on market liberalization and job creation, with less attention paid to protecting the vulnerable or reducing inequalities¹².

An overview of development indicators across the PJDP jurisdictions is presented at this point in order to better understand the accessibility and affordability elements within the Cook Islands indicators.

The following points are important for a more complete understanding of the court performance data that will be reviewed in the next chapter:

- 1 The population across the 14 PJDP jurisdictions varies from approximately 1,500 in Niue and Tokelau to over 7 million in Papua New Guinea. The second largest population is that of the Solomon Islands at 600,000 people. The population of PNG is around 4,600 times that of the smallest jurisdictions within the PJDP. This huge variation in the sizes of the jurisdictions within PJDP has implications for the complexity of the data gathering task when applied to court users.
- 2 Eleven of the fourteen PICs have had a basic needs poverty line calculated for their country. On average, a quarter of the population in each of these PICs has an income that falls below the basic needs poverty line for their country.
- 3 The cost of a civil case as a percentage of the weekly basic needs poverty line varies from 0% in the Federated States of Micronesia and Tokelau where there are no court fees to 413% in Vanuatu.

These development indicators for the Pacific highlight how, for a significant proportion of the population in each of the PJDP PICs, it is important that there is a process:

- to waive court fees in civil cases for those facing financial hardship and that this process is clearly presented to all court users; and
- for court users facing financial hardship to access the courts more easily through circuit courts as the cost of transportation to the court from their village is reduced.

**Key finding**

11 of the 14 PICs have had a basic needs poverty line calculated for their country. On average, a quarter of the population in each of these PICs has an income that falls below the basic needs poverty line for their country.

Key finding

The cost of a civil case as a percentage of the weekly basic needs poverty line varies from 0% in the Federated States of Micronesia and Tokelau where there are no court fees to 413% in Vanuatu.

Recommendation

PJDP provide assistance to build the capacity of courts in the region to report on the type of barriers individuals can face in accessing the courts and the strategies developed by courts to assist individuals to overcome these barriers.

Table 3.1 Pacific Island Country Profiles

Country	Population ¹³	GDP per capita (\$US) ¹⁴ 2014	GNI per capita (\$US) ¹⁵ 2013	GNI per capita (\$US) ¹⁶ 2012	HDI Rank 2014	Population living under the International Poverty Line (%) ¹⁷	Internet Users (Per 100 people) ¹⁸
Cook Islands	17,794 ¹⁹	22,537.00	–	14,917.70	–	28.4%	–
Federated States of Micronesia	102,843 ²⁰	3,277.00	3,430.00	3,316.50	124	31.4%	26
Kiribati	103,058 ²¹	1,486.00	2,620.00	2,076.90	133	21.8%	10.7
Marshall Islands	55,000 ²²	3,316.00	4,200.00	4,747.50	–	–	10
Nauru	10,200	11,948.00	–	12,577.40	–	–	–
Niue	1,611 ²³	15,067.00	–	–	–	–	82.2
Palau	20,000	14,620.00	10,970.00	8,853.40	60	24.9%	–
Papua New Guinea	7,600,000	2,138.00	2,010.00	2,013.80	157	28% (2009)	2.3
Samoa	192,067 ²⁴	3,696.00	3,430.00	3,436.50	106	26.9% (2008)	12.9
Solomon Islands	600,000	2,096.00	1,610.00	1,542.80	157	22.7%	7
Tokelau	1,411 ²⁵	\$1000 ²⁶	–	–	–	–	–
Tonga	103,252 ²⁷	4,752.00	4,490.00	4,524.50	100	22.5% (2009)	34.9
Tuvalu	10,000	3,312.00	6,630.00	7,050.60	–	26.3% (2010)	35
Vanuatu	300,000	3,126.00	3,130.00	2,868.80	131	12.7% (2010)	10.6

¹³ Unless stated, the data source for PIC populations is the 2014 *World Population Data Sheet* of the Population Reference Bureau. This is available at www.prb.org.

¹⁴ Data taken from Department of Foreign Affairs and Trade. 2014. *Country Profiles*. The Australian Government. Available at: <http://www.dfat.gov.au/geo/index.html>

¹⁵ Data taken from The World Bank Group. 2014. GNI per capita, Atlas Method (current \$US). The World Bank. Available at: <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

¹⁶ Data taken from UN Data. 2014. *Country Profiles*. World Statistics Pocketbook. UN Statistics Division. Available at: <http://unstats.un.org/unsd/pocketbook/>

¹⁷ Data taken from Asian Development Bank. 2012. *Basic Statistics 2014*. Available at: <http://www.adb.org/publications/basic-statistics-2014>

¹⁸ Data taken from UNICEF. 2012. *East Asia and the Pacific Country Profiles*. Available at: <http://www.unicef.org/infobycountry/eastasia.html>

¹⁹ Statistics Office. 2014. *Cook Islands census of population and dwellings 2011: Preliminary Report*. Avarua: Government of Cook Islands.

²⁰ Office of Statistics, Budget and Economic Management. 2010. *Summary Analysis of Key Indicators: Federated States of Micronesia*. Palikir: Government of the Federated States of Micronesia.

²¹ Data taken from UNICEF, 2014. *Child Poverty & Hardship in Kiribati*, pg 24, available at: <http://www.unicef.org/pacificislands/10993.html>

²² Population data for Marshall Islands, Nauru, Palau and Tuvalu taken from Asian Development Bank. 2014. *Basic Statistics 2015*. Available at: <http://www.adb.org/publications/basic-statistics-2015>

²³ Niue Economics, Planning, Development and Statistics Unit. 2011. *Niue population and household consensus 2011 report*. New Caledonia: Secretariat of the Pacific Community.

²⁴ Samoa Bureau of Statistics. 2014. *2011 Population and Housing Census Analytical Report*. Apia: Government of Samoa.

²⁵ Statistics New Zealand. 2014. *Final count for the 2011 Tokelau census of population and dwellings*. Wellington: Statistics New Zealand.

²⁶ No other data available for Tokelau after 1993. This data was taken from the World Bank database.

²⁷ Tonga Department of Statistics. 2014. *Tonga national population and housing consensus 2011*. Nuku'alofa: Government of Tonga.

GDP **Gross Domestic Product** is the monetary value of all finished goods and services within a state over a specified period, usually one year. It is calculated by the sum of all private consumption in a state's economy, all government spending, all business expenditure on capital and the state's net exports, calculated as total exports less total imports. GDP per capita is calculated by dividing GDP by the mid-year population.

GNI **Gross National Income** is the monetary value of production by a state's citizens or companies regardless of whether production occurred within the state. It is calculated by the sum of all production by resident citizens and businesses, or GDP, plus product taxes and the net receipts of primary income a state receives from other countries. GNI per capita is calculated by dividing GNI by the mid-year population.

HDI **The Human Development Index** aggregates indicators for life expectancy, education and income to create a single index that summarises the average development of a country. A country is compared to a standard maximum and minimum value for each of these three indicators to reveal where a country stands in relation to worldwide development. HDIs can be adjusted to take into consideration internal demographic and socio-economic variations as well as country-specific priorities. All countries assessed by the HDI are then ordered to give an HDI rank. The HDI is published annually by the UNDP.

GDI **The Gender Development Index** measures the level of equality between men and women. It applies the same indicators as the HDI but imposes proportionate penalties when there are disparities between men and women. The GDI does not measure inequality but is the HDI adjusted for gender disparities. All countries assessed by the GDI are then ordered to produce a GDI rank. The GDI is published annually by the UNDP.

BNPL **Basic Needs Poverty Line** identifies the national average income required per week, month or year to ensure a household or individual's basic needs are covered. The BNPL is calculated by the UNDP Pacific Centre under its Poverty and Social Impact Assessment Initiatives and is derived from each country's most recent Household Income and Expenditure Survey (HIES). It considers the proportion of income allocated for food and non-food expenditures such as housing, transport, school fees, medical expenses and clothing. The average actual level of non-food expenditure for households in the lowest three deciles is taken as the basis for the non-food factor and likewise for the food factor. The BNPL is the sum of these two monetary values. The advantage of the BNPL is that it can be adjusted to consider geographic or demographic specific costs, such as different expenses for urban and rural households. The difficulty with compiling BNPLs for all Pacific countries is the result of two factors:

- a Not every country has executed a Household Income and Expenditure Survey to provide the UNDP with the necessary data. Furthermore, some countries that have completed the HIES are 5–10 years out of date.
- b The UNDP Pacific Centre is understaffed while addressing multiple regional priorities, and thus has been unable to process and analyse all available surveys.

The Cook Islands, the Federated States of Micronesia, Kiribati, Republic of the Marshall Islands, Nauru, Niue, Samoa, Tokelau, Tonga, Tuvalu and Vanuatu have all completed a HIES. In its most recent report the UNDP Pacific Centre makes the following observations about BNPL in the PJDP countries:

Progress towards the achievement of poverty reduction targets in MDG 1 are mixed in the Pacific. Poverty, in terms of the proportion of the population below the basic needs poverty line, has risen or remained the same in recent years, mainly due to the economic crisis. ... In FSM, the proportion of the population living below the national basic needs poverty line increased during the period from 1998 to 2005 (FSM HIES 2005) and in Samoa, the proportion increased from 22.9% in 2002 to 26.9% in 2008 (Samoa HIES 2008). In PNG, the incidence of Basic Needs Poverty was estimated at 30% in 1996 and 39.9% in 2009–2011... (HIES 2009–2011, WB analysis: 7). In Tuvalu there has been an increase in the incidence of basic needs poverty from 21.2% of the population in 2004–2005 to 26.3% of the population in 2010. ... In Vanuatu, there has been a very slight decrease in Basic Needs Poverty, with a decline from 13% in 2006 to 12.7% in 2010. Currently, the population below the Basic needs poverty line is 21.8% in Kiribati (2006–2007), 22.7% in the Solomon Islands (2005–2006) and 22.5% in Tonga (2009 preliminary results) and 26.3% (2010) in Tuvalu²⁸.

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- 28 UNDP, Annual Report 2013 UNDP Pacific Centre, pp5–6.
- 29 The BNPL is calculated from the Food Poverty Line (the food expenditure and consumption patterns of the lowest three decile households) and the non-Food basic needs expenditures (calculated through household income and expenditure surveys). See: World Bank. 2011. *Choosing and Estimating a Poverty Line*. [On-line] Available at: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPOVERTY/EXTPA/0,,contentMDK:20242879~menuPK:434350~pagePK:148956~piPK:216618~theSitePK:430367,00.html>
- 30 Percentage of population with weekly expenditure under the BNPL.
- 31 Data compiled from: Pacific Islands Forum Secretariat. August 2013. *2013 Pacific Regional MDGs Tracking Report*. Pacific Islands Forum Secretariat: Suva, Fiji. pp.78–105.
- 32 UNDP. 2009. *National Millennium Development Goals Report – Cook Islands*. UNDP, Cook Islands. P16.
- 33 FSM Millennium Development Goals Task Force & UNDP. December 2010. *Millennium Development Goals & The Federated States of Micronesia: Status Report 2010*: Palikir, Pohnpei. p. 14.
- 34 The FSM Supreme Court has no filing fees. FSM National and State Judiciaries Annual Caseload and Performance Report 2014.
- 35 Department of Foreign Affairs and Trade. March 2014. *Kiribati Program Poverty Assessment*. DFAT: Australia. p.7.
- 36 Republic of the Marshall Islands Judiciary. December 2013. *Schedule of Court Costs and Fees*. <http://rmicourts.org/>
- 37 Government of Nauru and UNDP, August 2012. *Nauru Progress Report 1990–2011*. UNDP, Fiji, p11.
- 38 Secretariat of the Pacific Community. 2002. *HIES 2002: Niue Poverty Analysis*, <http://www.spc.int/prism/nutest/Reports/Poverty/Poverty.htm>
- 39 Abbott, D. and E. Sadang. 2008. *Palau – Analysis of the 2006 Household Income and Expenditure Survey: Final report on the estimation of basic needs poverty lines, and the incidence and characteristics of poverty in Palau*. UNDP Pacific Centre and Palau Office of Planning and Statistics: Suva, Fiji.
- 40 Judiciary Branch. 2014. *Judicial Fees*. Republic of Palau. [On-line] <http://www.palausupremecourt.net/>
- 41 Supreme Court Registry. 2012. *Supreme and National Courts of Papua New Guinea: Fees*. Government of Papua New Guinea. <http://www.pngjudiciary.gov.pg/home/index.php/supreme-court/acts-rules/76-fees>
- 42 Abbott, D. and S.R. Muagututia. 2010. *Samoa: A Report on the Estimation of Basic Needs Poverty Lines, and the Incidence and Characteristics of Hardship & Poverty. Analysis of the 2008 household income and expenditure survey*. UNDP Pacific Centre and Government of Samoa Bureau of Statistics: Suva, Fiji. p.3.
- 43 Samoa Supreme Court. *Samoa Supreme Court (Fees and Costs) Rules 1971 Schedule 1*.
- 44 UNDP: Solomon Islands Analysis of the 2005/06 Household Income and Expenditure Survey – http://www.asia-pacific.undp.org/content/dam/rbap/docs/Research%20&%20Publications/poverty/PC_solomon_report_hies.pdf
- 45 Suveinakama, Lise H. 2012. *Tokelau Judicial Annual Report: July 2011–June 2012*. National Judiciary: Tokelau.
- 46 Ministry of Finance and National Planning. September 2010. *2nd National Millennium Development Goals Report: Tonga*. Government of Tonga: Nuku’alofa. p.5.
- 47 Kingdom of Tonga. 2010. *Court Fees (Amendment) Act 2010 (Act No. 24 of 2010)*.
- 48 Secretariat of the Pacific Community (SPC). *Tuvalu – Preliminary Analysis of Hardship and Poverty from HIES 2010*.
- 49 *Tuvalu Magistrates’ Courts (Fees in Civil Cases) Rules (2008 Revised Edition Cap.7.36.1)*
- 50 Vanuatu National Statistics Office and UNDP Pacific Centre. August 2013. *Vanuatu Hardship & Poverty Report: Analysis of the 2010 Household Income and Expenditure Survey*. UNDP: Suva, Fiji. p.25.

Table 3.2 Basic Needs Poverty Line

Country	Basic Needs Poverty Line (BNPL) ²⁹		Percentage of Population Under the BNPL ³⁰		Court Costs	
	Weekly Adult per capita BNPL	Weekly BNPL per Household in the Lowest 3 Deciles	Individual (National Average) ³¹	Household	Civil Case Cost	Civil Case Cost as percentage of Weekly Adult BNPL
Cook Islands	NZD 117.94 ³²	NZD 582	28% (2006)		\$30–70	25%
Federated States of Micronesia	USD 23.12	USD 154.44 ³³	31% (2005)	22.4% (2005)	No fee ³⁴	0%
Kiribati	AUD 16.00 ³⁵	AUD 165	22% (2006)	17%	Magistrates Court \$3 High Court First Instance cases \$50	18%
Marshall Islands					USD 25.00 ³⁶	
Nauru	AUD 36.96 ³⁷	AUD 11.86	25% (2006)		USD 30.00	105%
Niue	NZD 86.0 ³⁸	NZD 133.00	13% (2002)		Filing and hearing of a divorce case = \$95.70. High Court filing and hearing fees = \$45. All stages of a land case could reach several hundred dollars.	52%
Palau	USD 58.05 ³⁹	USD 244.67	25% (2006)	18.4%	USD 50.00 ⁴⁰	86%
Papua New Guinea			28% (2009)		PGK 50.00 ⁴¹	
Samoa	SAT 53.59 ⁴²	SAT 493.02	27% (2008)	20.1%	SAT 36.60 ⁴³	68%
Solomon Islands	SBD 47.37 ⁴⁴	SBD 265.77	23% (2006)	18.8%	Family cases \$85, other civil cases from \$395 depending on value of claim	180%
Tokelau					No fee ⁴⁵	0%
Tonga	TOP 49.73 ⁴⁶	TOP 337.52	23% (2009)		TOP 52.00 ⁴⁷	113%
Tuvalu	AUD 34.55 ⁴⁸	AUD 225.52	26% (2010)		AUD 6.00 ⁴⁹	20%
Vanuatu	VUV 1933 ⁵⁰	VUV 8239	13% (2010)	21.6%	VUV 8,000 in Magistrates Court and VUV 20,000 in Supreme Court	413%

4 Overview of Reporting on Court Performance Indicators

The information presented in this 2014 Court Trend Report is based on the court Annual Report or other public documents referred in Table 4.1 below. For some jurisdictions, this has been supplemented by additional information presented by PJDP courts:

Table 4.1 Data for 2014 Court Trend Report

	Annual Report or Year of Court data referred to in the Trend Report (hardcopy or e-copy on file)	Court Website	Annual Report on website; if Yes what is the latest year
Cook Islands	Annual Report 2013–2014	YES http://www.justice.gov.ck	YES 2013–2014 Ministry of Justice website
Federated States of Micronesia	Annual Report 2014	YES www.fsmsupremecourt.org	YES 2014 Court website
Kiribati	Address by Chief Justice Sir John Muria at the formal opening of 2015 (2014 data) 2014 AR draft format	YES	YES Address by Chief Justice Sir John Muria at the formal opening of 2015 (2014 data) PacLII website
Marshall Islands	Annual Report 2014	YES http://rmicourts.org/	YES 2014 Court website
Nauru	No new data publicly available	NO	YES 2009–2010 PacLII website
Niue	Annual Report 2013–2014	NO	YES 2013–2014 PacLII website
Palau	Annual Report 2014	YES http://www.palausupremecourt.net/	YES 2014 Court website and PacLII
PNG Supreme & National Courts	Annual Report 2013	YES www.pngjudiciary.gov.pg	NO
PNG Magistrates Court	Annual Report 2012	YES http://www.magisterialservices.gov.pg/	NO
Samoa	Court data contributed to MJCA Annual Report 2013–2014	http://www.mjca.gov.ws/ http://www.samlii.org/	YES MJCA 2012–2013 Annual Report available on Parliamentary website
Solomon Islands	Annual Report 2012	NO	YES 2015 Opening Address of the Legal Year* (2014 data) PacLII website
Tokelau	Annual Report 2013–2014 in draft format	NO	YES 2012–2013 PacLII website
Tonga	Annual Report 2014	YES http://www.justice.gov.to	YES 2014 PacLII website*
Tuvalu	No Annual Report	NO	NO
Vanuatu	Annual Report 2014	NO	YES 2014 PacLII website*

* National Coordinator advised that Annual Report or Opening of the Legal Year Address had been finalised and once approved would be sent to PacLII.

Indicator 1 Case Management–Clearance Rate

Clearance Rate: The result against this indicator is obtained by dividing cases finalised by cases filed.

Key finding

12 of 14 PJDP countries (86%) are able to present data in a form that will permit a clearance rate to be calculated for one or more level of court jurisdiction. In the 2011 Baseline Report, 9 of 14 PJDP countries (64%) were able to present data in a form that will permit a clearance rate to be calculated. There is a **trend improvement** in this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation

Courts present data in their annual report on the number of cases filed and the number of cases finalised in the previous court reporting cycle. This will allow judges and court staff to track clearance rates for different types of cases being heard at different levels in the national courts.

Key finding

The Republic of the Marshall Islands is the only court that presents a goal in relation to clearance rates in its annual report.

Recommendation

Where courts have developed goals or standards for the hearing of cases this should be included in the Annual Report with information on whether these goals have been met.

In 2013, PJDP provided all courts with a tool called the Excel Chart Creator that assisted courts to calculate clearance rates and present trend data over a number of years. Many PJDP courts have used this tool in their Annual Reports. This Chart Creator has been used by Tokelau to show clearance rates for each of the three islands as well as for Tokelau as a whole for the past three years. Tokelau has maintained a 100% clearance rate for 2 of the last 3 years.

A clearance rate of 100 percent or higher indicates that a Court is able to keep up with the cases being filed at Court. The Marshall Islands has a goal of a 100% clearance rate in civil, criminal and juvenile cases and presents trend information for the previous 5 years on whether it has met this goal.

Table 4.1.1 Clearance rates – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
High Court: Criminal Division 67% Civil Division 67% Land Division 48%	Supreme Court of FSM: 84% State Courts: Pohnpei 72%, Chuuk 169%, Yap 95%	Court of Appeal: 100% High Court: 81% Magistrates Court: 76%	Supreme Court: 145% High Court: Civil cases 143% Criminal cases 222%	Data unavailable	High Court Land Division 58%	Supreme Court 94% Land Court 57% Court of Common Pleas 96% (2012)
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court 91% National Court 101%	Court of Appeal: 95% Supreme Court: 97%, District Court Civil and Criminal divisions: 76%, Youth Court: 153%	Court of Appeal 92% High Court: 91% Magistrates Court: 54%	100%	Court of Appeal 121% Supreme Court 94%	Data unavailable	Supreme Court 90% Magistrates Court 101%

Table 4.1.2 Clearance rates – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Magistrates Court 22% High Court 32%	Supreme Court 225% (2010) High Court 103% (2010) District Court 87% (2010)	Supreme Court 14% (2010/2011) Magistrates Court 81% (2010/2011)	Data unavailable	Court of Common Pleas 86% (2010)
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court 53% (2007) civil and criminal cases National 12% (2007) civil cases only Magistrates Court 68% (2010) This data is obtained using the 57 Magistrates Court with an electronic case management system as a sample.)	Data unavailable	High Court 30.92% (2009)	Data unavailable	Supreme Court 70% (2010) Magistrates Court 84% (2010)	Magistrates Court 67%	Supreme Court 82% (2010) Magistrates Court 80% (2010) Island Court 76% (2010)

Indicator 2 Case Management – Average Duration of a Case

Average Duration of a Case: The result against this indicator is obtained by totalling the days for each case from the date the case is filed to the date it is finalised and then dividing this by the number of cases finalised.

Key finding

Ten PJDP countries (71%) are able to collect data on the average duration of a case in their court. In the 2011 Baseline Report, 2 of 14 PJDP countries (14%) were able to present data on the average duration of a case. There is a **trend improvement** in this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation

Courts present data in their annual report on the average duration of different types of cases (e.g. civil, criminal, small claims, family/divorce, juvenile cases etc.) finalised in the previous court reporting cycle.

Key finding

The Republic of the Marshall Islands and Federated States of Micronesia are the only PJDP jurisdictions to refer to a time standard for the hearing of different types of cases in their 2014 Annual Reports.

Recommendation

That courts include in their annual report the time standard within which they aim to complete different types of cases and provide data on the percentage of cases that have been completed within the time standard set by the court.

Different types of cases vary in their level of complexity which means that the time taken to finalise them will also vary. Courts therefore often set different time standards for different types of cases. A time standard may also stipulate that a certain percentage of cases will be finalised within the time standard.

In 2014, both the Marshall Islands and Federated States of Micronesia published Time Standards for the hearing of certain types of cases.

In July 2014, the Supreme Court of the Federated States of Micronesia issued Timeline Standards “to ensure that the Court can guarantee for its users and the citizens of the FSM that cases are dealt with without undue delay and in order that the court, its stakeholders and users have a common concept of what a reasonable time may be for particular types of cases”⁵¹. These Timeline Standards were published on the website of the FSM judiciary.

In September 2014, the Chuuk State Supreme Court issued a General Court Order setting Timeline Standards, “in recognition of its obligation to conduct a fair trial in a reasonable time, has developed Timeline Standards for management of all cases from the date of filing to disposition”. These Timeline Standards were published in the Chuuk State Supreme Court Annual Report for 2014⁵² that is available on the Court’s website and include:

- Civil cases: 80% of cases finalised within 7 months and 98% of cases within 18 months;
- Criminal cases: 90% of cases finalised within 3 months and 98% of cases within 12 months;
- Land Cases: 90% of cases finalised within 9 months and 98% of cases within 12 months; and
- Family cases: 80% of cases finalised within 3 months and 98% of cases within 12 months.

The Clerk of Court of Chuuk State Supreme Court will be responsible for (i) monitoring compliance with the Timeline Standards; (2) creating and maintaining a record for each of the individual judges in connection with the Timeline Standards; and (3) reporting his findings to the Chief Justice every quarter.

Many of the PJDP courts mention in their court mission and vision statements that they aspire to the efficient resolution of disputes in their country. It is not possible for courts to determine whether cases are being resolved efficiently if they are unable to collect and analyse data on the average duration of the cases that come before the courts. As can be seen from the courts that are able to collect data on the duration of the case, these cases are disaggregated based upon the types of cases (e.g. civil, criminal, juvenile cases etc.).

51 Timeline Standards for the Supreme Court of the Federated States of Micronesia, 10 July, 2014. http://fsm-supremecourt.org/WebSite/fsm/rules/gco/time_standard.pdf

52 Chuuk State Supreme Court Annual Report for 2014, pp28–40 <http://www.chuukssc.org/home.html>

Table 4.2.1 Average duration of a case – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Supreme Court: Criminal cases: 278 days, Civil Cases 610 days, Appeal cases 379 days	Court of Appeal: 235 days	Supreme Court 895 days High Court Civil cases: 595 days Criminal cases: 1456 days	Data unavailable	High Court Land Division 72 days	Supreme Court: Criminal 147 days; Civil 796 days; Juvenile 121 days Court of Common Pleas: Small Claims 50 days, Citations 28 days; Criminal 156 days Land Court: 738 days
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
National Court: 1966 days	Data unavailable	Court of Appeal: 129 days Magistrates Court: Criminal Cases 49 days	Atafu: 33 days Fakaofu: 44 days Nukunonu: 66 days Average across the three islands: 40 days	Supreme Court: Criminal 45 days; Civil 15 days; Land 29 days	Data unavailable	Supreme Court: 473 days Magistrates Court: 236 days

Table 4.2.2 Average duration of a case – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	Supreme Court Data unavailable High Court Average of 174 days for 2009 cases. District Court Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Court of Common Pleas: Civil 62 days Criminal 72 days Small claims 55 days
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	High Court Data unavailable	Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Supreme Court Data unavailable Appeal Court Data Unavailable Island Court Data unavailable

Indicator 3 Case Management – The Percentage of Appeals

The percentage of appeals: The result against this indicator is obtained by dividing the number of cases appealed to a higher court in which the lower court decision is overturned in whole or in part by the number of cases finalised in the level of court jurisdiction from which the appeal is made.

Key finding

12 of the 14 PJDP countries (86%) were able to collect data on the number of cases appealed as a percentage of the number of cases filed in a particular year for one or more level of court jurisdiction. In the 2011 Baseline Report, eight of the 14 PJDP countries (57%) were able to collect data on the number of cases appealed as a percentage of the number of cases filed in a particular year. There is a **trend improvement** in this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation

PJDP countries present data in their annual report on the number of cases from each level of court that are the subject of an appeal each year. This indicator provides courts with estimates from year to year of the percentage of trial level cases that will be referred to appeal courts. This allows courts to estimate the level of human and financial resources to deal adequately with appeals from the trial caseload.

It is considered important for courts to monitor overall appeal trends to identify:

- (i) what resources will be required to handle the appeal cases in an efficient manner,
- (ii) what percentage of cases are being referred to appeal courts, and/or
- (iii) whether judgments from particular judges are being referred to appeal courts at a higher rate than the national level.

Table 4.3.1 The percentage of appeals – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
7% of High Court decisions appealed	1% of State Court decisions are appealed to the Supreme Court	4% of High Court decisions appealed and 4% of Magistrates Court decisions appealed	1% of High Court civil decisions appealed and 5.5% of High Court criminal decisions appealed	Data unavailable	1% of High Court land division decisions appealed	1% of criminal decisions and 9% of civil decisions were appealed in the Supreme Court
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
National Court 8%	Family Court: 0 decisions appealed.	10% of High Court decisions appealed Less than 1% of Magistrates Court decisions appealed	0% of Law Commission decisions appealed.	5% of Supreme and Land Court cases were the subject of an appeal to the Court of Appeal	Data unavailable	8% of Supreme Court decisions and 1% of Magistrates Court decisions appealed

Table 4.3.2 The percentage of appeals – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	High Court 1% (2010) District Court 0%	Supreme Court Data unavailable Magistrates Court Data unavailable	0.43%	Court of Common Pleas 0%
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court 6% (2007) Magistrates Court Data unavailable	Data unavailable	High Court 2%	Data unavailable	Supreme Court 4% (2010) Magistrates Court 0.002% (2010)	0.005%	Supreme Court 7% Appeal Court Data Unavailable Island Court Data unavailable

Indicator 4 Case Management – Overturn Rate on Appeal

Overturn rate on appeal: The result against this indicator is obtained by dividing the number of appeal cases in which the lower court decision is overturned by the total number of appeals.

Key finding

11 of 14 PJDP countries (79%) are able to collect data on the percentage of appeal cases in which the lower court decision is overturned by the appellate court. In the 2011 Baseline Report, three of 14 PJDP countries (21%) (Republic of the Marshall Islands, the Republic of Palau and Tuvalu) were able to collect data on the percentage of appeal cases in which the lower court decision is overturned by the appellate court. There is a **trend improvement** in this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation

All appeal cases should be published online through PaCLII or national court websites in order to be able to report on the overturn rate on appeal.

It is important to track the overturn rate on appeal to establish if certain types of cases are overturned on appeal at a higher rate than the national average.

Table 4.4.1 Overturn rate on appeal – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
33% of the matters referred to the Court of Appeal were overturned in whole or in part.	Data unavailable	High Court: 2 of the 14 High Court decisions that were the subject of an appeal (14%) were overturned on appeal. Magistrates Court: 1 of the 253 Magistrates Court decisions that were the subject of an appeal (less than 1%) were successful.	High Court 0% of civil or criminal cases overturned on appeal.	Data unavailable	The Court of Appeal heard one appeal from the Land Division of the High Court: The original decision was not overturned on appeal.	2 of the 41 appeal cases brought in 2014 (5%) were successful in overturning the original decision.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
National Court 14 of the 356 decisions that were the subject of an appeal (4%) were overturned on appeal.	Family Court: 0 decisions appealed.	High Court: 8 of the 38 High Court decisions that were the subject of an appeal (21%) were overturned on appeal.	0%	Court of Appeal: Of the 40 appeal cases finalised, 20% were overturned on appeal or were successful.	Data unavailable	16 of the 49 appeals (33%) to the Court of Appeal were allowed and 7 of the 20 appeals (35%) completed by the Supreme Court were allowed.

Table 4.4.2 Overturn rate on appeal – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	High Court 0%. Data collected but no appeals in 2010 District Court 0%. Data collected but no appeals in 2010	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Court of Common Pleas 0% (2010) Data collected but no appeals in 2010
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court Data not presented in 2007 Magistrates Court Data not recorded	Data unavailable	Data unavailable	Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	100%	Supreme Court Statistics not recorded Appeal Court Data Unavailable Island Court Data unavailable

Indicator 5 Accessibility of Courts – Court Fee Waiver

Percentage of cases that are granted a court fee waiver: The result against this indicator is obtained by dividing the number of cases that are granted a court fee waiver by the total number of cases filed.

Key finding

12 of the 14 PJDP countries (86%) could present data on the percentage of cases that were granted a court fee waiver. In all other courts, it is unclear from publicly accessible reports whether there is (i) a court fee waiver process or (ii) data are collected on the number of cases in which the court fee is waived. In the 2011 Baseline Report, three of the 14 PJDP countries (21%) could present data on the percentage of cases that were granted a court fee waiver. There is a **trend improvement** in reporting on this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation

With approximately one quarter of the population in the PJDP PICs having an income that falls below the basic needs poverty line in that country, Courts should provide clear documentation for all court users on the process for waiving a court fee in civil cases. Courts should also include in the Annual Report data on the number of cases in which fees are waived.

Table 3.2 (page 41) illustrates that the cost of a civil case represents between 18% (Kiribati) to 413% (Vanuatu) of the weekly income of a person living on the Basic Needs Poverty Line. With approximately one quarter of the population in the PJDP PICs having an income that falls below the basic needs poverty line in that country, only the justice system in the Federated States of Micronesia and Tokelau is accessible to all citizens regardless of their income.

Tokelau and FSM (in the Supreme Court⁵³) had no court fees for any of its cases; the Republic of the Marshall Islands indicated that there had been no request for a court fee waiver; Niue and the High Court of the Cook Islands stated that there was no policy in relation to the waiver of court fees and no court fee waivers were granted in 2013/2014. In Tonga, there is no statutory provision for the waiver of a court fee, it is left to the litigant to plead indigence. In the PNG National Court, all cases in the Human Rights track are filed without a court fee. In 2013, these cases comprised 6% of cases filed in the National Court.

Several PJDP jurisdictions have introduced new legislation relating to family violence that include protection orders. Countries have generally legislated that there will be no fee for applications for protection orders. In 2014, the Marshall Islands repealed the provision that set a fee for domestic violence cases. In Vanuatu, all family protection orders issued by the Magistrates Court had the fee waived: this was 770 cases or 34% of all Magistrates Court cases.

In Samoa a court fee waiver process is set out in Article 4 of the Supreme Court (Fees and Costs) Rules 1971. In Vanuatu the court fee in probate matters may be waived by the Registrar upon an application by a party. However, in both countries, data are not collected on the number of cases where a court fee waiver is sought and/or granted by the court.

⁵³ Except for Bankruptcy cases. However there were no bankruptcy cases in 2014.

Table 4.5.1 Percentage of cases that are granted a court fee waiver – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
0% The High Court does not have a formal Court fee waiver policy.	100%. There are no fees for cases in the Supreme Court (except in bankruptcy matters).	Court of Appeal: in 14% of cases the court fee was waived.	0% In 2014, no applicant in a civil matter requested a waiver of the court fee.	Data unavailable	0%	0%
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
National Court: All cases in the Human Rights track are filed without a court fee. These cases comprised 6% of cases filed in the National Court in 2013.	Family Court: no fees charged for an application for a protection order.	Court of Appeal: 1 fee waiver (3%)	100%	0%	Data unavailable	All family protection orders issued by the Magistrates Court had the fee waived: this was 770 cases or 34% of all Magistrates Court cases.

Table 4.5.2 Percentage of cases that are granted a court fee waiver – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Court of Common Pleas 0% (2010)
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Appeal Court Data unavailable Supreme Court Data unavailable Magistrates Court Data unavailable	100%	Supreme Court Data unavailable Magistrates Court Data unavailable	Magistrates Court 0% (2010)	Data unavailable

Indicator 6 Accessibility of Courts – Circuit Courts

Percentage of cases disposed through a Circuit Court: The result against this indicator is obtained by dividing the number of cases finalised through a circuit court by the total number of cases finalised.

Key finding

10 of 14 PJDP courts (71%) are able to provide data on the percentage of cases heard through a circuit court. In five of the 10 countries that are able to provide data, no circuit courts are held. In the 2011 Baseline Report, seven of 14 PJDP courts (50%) were able to provide data on the percentage of cases heard through a circuit court. There is a **trend improvement** in this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation

With approximately one quarter of the population in the PJDP PICs having an income that falls below the basic needs poverty line in that country, courts should provide clear information for all court users on the process for registering and hearing cases through circuit courts. Courts should also include in the Annual Report data on the number of cases heard through a circuit court.

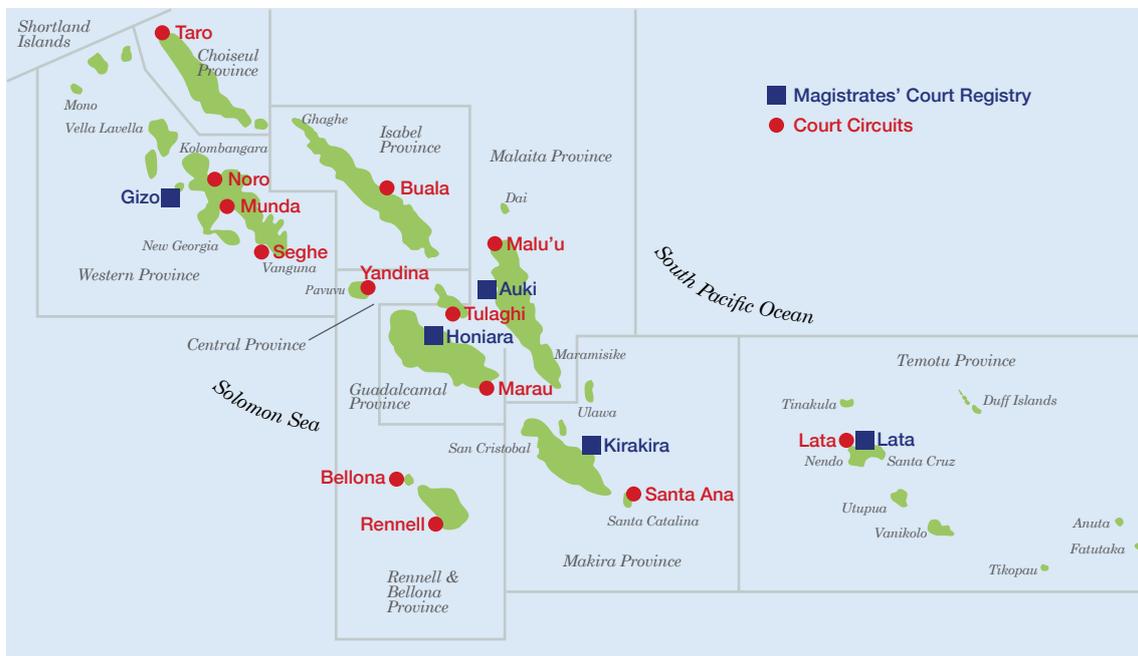
A circuit Court is where judges and court staff travel from an urban courthouse to more remote areas to register and hear cases. In those PJDP countries where it is difficult or costly to travel to national or provincial capitals, the provision of circuit courts increases the possibility that women, the poor and those living in remote areas will be able to access the formal court system for their legal disputes.

Travelling from remote areas to urban courthouses often imposes financial, cultural, physical and sometimes psychological barriers for individuals to access the formal justice system. Financial barriers can include the transportation cost of travelling from a remote area to an urban centre for the number of times required to register a case, have it heard and receive a court judgment in the matter as well as the income foregone from the time taken for this travel. Physical barriers include inhospitable terrain, uncertain or irregular boat transportation as well as security problems in certain areas en route to the court. Cultural and/or psychological barriers often prevent women and children from travelling from their village to an urban centre to register and have a case heard in a formal court. For people living with a disability, a circuit court hearing close to their village makes accessing the courts significantly easier and less costly.

In the Republic of the Marshall Islands, a High Court judge travels from Majuro Island to Ebeye Island to hear High Court cases every two months. The Ebeye High Court cases can either be filed at the District Court in Ebeye Island or the court client can file the case on Majuro Island. This is particularly valuable for court clients as it removes the cost of having to travel to a city where there is a courthouse in order to file a case. In 2014, 13% of all civil cases, 50% of criminal cases and 100% of juvenile cases were finalised on a circuit court to Ebeye.

In Samoa, the District Court, Faamasino Fesoasoani Court and Lands and Titles Court all hear matters in Tuasivi through judges travelling to hold circuit courts on Savaii Island. In 2013–2014, 38% of all cases completed in the Lands and Titles Court, 31% of all cases completed in the Faamasino Fesoasoani Court and 30% of civil and criminal cases finalised in the District Court were heard by judges travelling on circuit in Savaii. This makes justice more accessible to a wide range of people in Samoa who would find it difficult to travel to the Court in Mulinu'u.

In Tonga, 6% of all Supreme Court cases, including 23% of all adoption and guardianship cases, were heard by the Supreme Court at circuit court sittings in Vava'u during 2014. In Vanuatu, 5% of all Supreme Court cases were heard on a circuit court in 2014. In the Solomon Islands 2012 Annual Report the map below identifies the circuit court locations for the Magistrates Court:



In countries where a significant proportion of the population live in remote areas, it is important for courts to collect data on the demand for circuit courts so that it may present a financial argument for appropriate resources to deliver court services to its population through circuit courts to remote areas. Kiribati presents this point clearly in its 2012–2014 Annual Report when it states:

“The High Court circuits to remote islands in twenty one districts dispersed over 1 million square miles. It is a real challenge to provide quality justice to the people living on these atolls. Challenges include the availability of the Chief Justice, the remoteness and scattered islands, the poor communication and transportation infrastructure. Five High Court circuits to remote islands are normally budgeted each year”⁵⁴.

Table 4.6.1 Percentage of cases disposed through a circuit court – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	0% (No circuit courts)	In 2014, 6% of cases finalised by the High Court were heard on a circuit court.	In 2014, 13% of all civil cases, 50% of criminal cases and 100% of juvenile cases were finalised on a circuit court to Ebeye.	0 circuit courts due to the size of Nauru (0%)	0% (No Circuit courts)	0% (No Circuit courts)
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	30% of all District Court civil and criminal cases, 38% of all Land and Titles Court cases and 31% of all summary court cases were heard at a circuit court on Savaii island.	Data unavailable	0% Circuit courts not required as Law Commissioners hear cases on each of the three islands.	6% of all Supreme Court cases, including 23% of all adoption and guardianship cases, were heard by the Supreme Court at circuit court sittings in Vava'u during 2014.	Data unavailable	In 2014, 5% of all Supreme Court cases were heard on a circuit court.

Table 4.6.2 Percentage of cases disposed through a circuit court – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	7%	0% (No circuit courts)	Data unavailable	0% (No circuit courts)
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Circuit courts held but data on the percentage of cases heard through a circuit court unavailable	Data unavailable	0% (No circuit courts)	Circuit Courts not required as Law Commissioners hear cases on the 3 islands (less than 25 km ² for the three islands).	0.03% of all Magistrates Court cases were heard on circuits by the Tongatapu court to 'Eua and Ha'api.	0.002% (2010)	Circuit courts held but data on the percentage of cases heard through a circuit court unavailable

Indicator 7 Accessibility of Courts – Legal Aid

Percentage of cases where a party receives legal aid: The result against this indicator is obtained by dividing the number of cases where a party receives legal aid by the total number of cases received.

Key finding

Eight PJDP countries (57%) collect data on the percentage of cases in which a party receives legal aid. In the 2011 Baseline Report, two of 14 PJDP courts (14%) were able to provide data on the percentage of cases heard through a circuit court. There is a **trend improvement** in reporting on this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation

With approximately one quarter of the population in the PJDP PICs having an income that falls below the basic needs poverty line in that country, PJDP courts should collect information at the time the case is filed on whether a party will receive legal aid. This is particularly important in criminal matters as many PJDP jurisdictions require that a defendant be represented by a lawyer in serious criminal matters or where the defendant is a juvenile.

In the Republic of the Marshall Islands, the High Court records the cases in which a party receives legal aid to bring the case. As the case management system in the Republic of the Marshall Islands collects data disaggregated by whether a defendant in a criminal case is an adult or a juvenile, the High Court is also able to record the percentage of juvenile and adult criminal defendants that receive legal aid.

In the Republic of the Marshall Islands there are two legal aid providers: the Office of the Public Defender and the Micronesian Legal Services Commission (MLSC). Both of these agencies will provide legal assistance to applicants and respondents in civil cases as well as defendants in criminal cases. In 2014, the Nitijela appropriated \$40,000 to the RMI Judiciary to pay court-appointed attorneys to represent those who cannot afford an attorney and for conflict reasons cannot use the Micronesian Legal Services Corporation or the Office of the Public Defender.

In Palau the data on legal aid are collected by the public defender's office and the Micronesian Legal Services Commission. The public defender's office decided in 2010 that it would not provide legal assistance in civil cases. This has meant that the MLSC is the only agency providing legal aid in civil cases in Palau and can only provide assistance to one party. Both the MLSC and the judiciary consider that this leaves the other party/parties that are unrepresented in civil matters in a disadvantaged position.

The FSM is now able to report on the percentage of cases where one or more party in a case receive legal aid. Like other Micronesian PJDP partners, the FSM is able to provide legal aid to 100% of parties in criminal cases and 50% of civil cases.

In Tokelau and Tonga there is no provision of legal aid.

Table 4.7.1 Percentage of cases where a party receives legal aid – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Supreme Court In 100% of criminal cases and 50% of civil and appeal cases filed in 2014, one or more parties received legal aid.	High Court In 1% of cases filed in 2014, one or more parties received legal aid.	High Court In 58% of civil matters filed in 2014, one or more parties received legal aid. In 72% of criminal matters filed in 2014 and in 100% of juvenile matters, the defendant received legal aid.	Data unavailable	High Court Land Division: In 18 of the 260 cases filed, parties received legal aid.	Supreme Court In 187 of the 192 criminal cases (97%), 8 out of 10 juvenile cases (80%) and 50 of 188 civil cases (27%), parties received legal aid through the Public Defenders Office, MLSC or Court appointed counsel. Court of Common Pleas: In 65 of 135 common pleas and 45 of 1069 citations, parties received legal aid through the Public Defenders Office, MLSC or Court appointed counsel.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	Data unavailable	Data unavailable	0% There is no provision for legal aid.	0% Tonga does not have a formal legal aid scheme.	Data unavailable	Supreme Court In 114 of the 710 cases (16%) parties received legal aid.

Table 4.7.2 Percentage of cases where a party receives legal aid –2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	High Court 59% (2010) In 84% of criminal cases and 100% of juvenile criminal cases the defendant received legal aid. (2010)	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Data unavailable
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court Data unavailable Magistrates Court Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	Appeal Court Data unavailable Supreme Court Data unavailable Magistrates Court Data unavailable	0% of parties receive legal aid. Parties represent themselves.	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Data unavailable

Indicator 8 Complaint Handling and Feedback

Documented process for receiving and processing a complaint that is publicly available: To show results against this indicator the process for receiving and processing a complaint should be accessible to the public.

Key finding

Six PJDP countries (43%) have a documented process for receiving and processing a complaint. Three other PJDP countries have a documented process for receiving and processing a complaint in relation to court staff members that are public servants. In the 2011 Baseline Report, three of 14 PJDP courts (21%) had a documented process of receiving and processing a complaint. There is **trend improvement** for this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation

PJDP countries that have developed a judicial code of conduct or have another process for receiving complaints related to judicial service should make these complaint handling processes publicly available on their websites, the PacLII website and the court noticeboard. PJDP Courts should also include in their annual reports a section on any complaints and feedback received and how the court has responded.

Over the last two years, the PNG and Vanuatu judiciaries have discussed introducing complaint handling mechanisms for the judiciary.

In PNG a complaints handling process was included in the new Judiciary Complaints Procedure (March 2014) covering both judicial officers and court staff. A booklet on the Judiciary Complaints Procedure was published however it is not accessible on the PNG judiciary website. The Chief Justice in his introduction to the booklet stated that:

“This procedure is the first of its kind to be put in place in the judiciary. Up until now, there are no internal investigative procedures in place within the judiciary that makes provision for complaints made against court staff (judicial and non-judicial) to be investigated internally, in order for appropriate action to be recommended or taken.

These procedures enable complaints to be investigated in a transparent, fair and effective manner. Certain facets of the procedure are designed to observe judicial independence”.

During 2015, Vanuatu has formulated procedures for receiving and handling complaints that have been agreed in consultation with the judges. The Chief Justice is currently putting in place the administrative system to ensure information is captured for analysis and reporting. The complaints procedure will be officially launched once the administrative system is finalised in the second half of 2015.

Table 4.8.1 Documented process for receiving and processing a complaint that is publicly available – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
The existing procedures of the Court to address complaints against Judges and Justices of the Peace have been reduced to writing and are now placed on the Government website.	There is no complaint handling process for Judicial Officers.	Complaints handling process included in the new Judicial Code of Conduct.	Complaints handling process included in the accountability section of the RMI Code of Judicial Conduct.	Data unavailable	There is no complaint handling process for Judicial Officers. There is a complaint handling process that is applied to the public servants working in the Niue High Court.	Part 7 of the Republic of Palau Judicial Code of Conduct deals with complaints against judges.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Complaints handling process included in the new Judiciary Complaints Procedure (March 2014) covering both judicial officers and court staff.	There is no complaint handling process for Judicial Officers. There is a complaint handling process that is applied to the public servants working in the Court under the <i>Public Services Act 2004</i> .	There is no complaint handling process for Judicial Officers. There is a complaint handling process that is applied to the public servants working in the Court under the <i>Public Services Act 2004</i> .	At present, there is no established complaint handling mechanism for the Tokelau Judiciary.	A complaint handling process was set out in the 2012–2013 Annual Report of the Superior Judiciary of Tonga.	Data unavailable	The complaint handling process is being developed and will be published during 2015.

Table 4.8.2 Documented process for receiving and processing a complaint that is publicly available – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Complaints Handling Process included in the new Judicial Code of Conduct.	Accountability section in the RMI Code of Judicial Conduct applies to all courts.	Supreme Court Data unavailable Magistrates Court Data unavailable	A Complaints Handling Ombudsman Backed Service was implemented in February 2010 and applies to court staff but not judicial officers.	The Republic of Palau Code of Judicial Conduct 2011 was promulgated by the Palau Supreme Court March 1, 2011, and amended March 9, 2011 and is available on the Palau Judiciary website. Part 7 of the Code deals with complaints against judges.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme and Magistrates Court: There is not a policy for receiving and processing a complaint that is publicly available.	Data unavailable	High Court Data unavailable	Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	The court does not have such a policy for receiving and processing complaints.	Supreme Court No document exists Appeal Court Data Unavailable Island Court Data unavailable

Indicator 9 Complaint Handling and Feedback – Judicial Officers

Percentage of complaints received concerning a judicial officer: The result against this indicator is obtained by dividing the number of complaints received concerning a judicial officer by the total number of cases filed.

Key finding

Eleven PJDP countries (79%) presented information on the percentage of complaints received concerning a judicial officer. In the 2011 Baseline Report, three PJDP countries (21%) (Republic of the Marshall Islands, Republic of Palau and Vanuatu) presented information on the percentage of complaints received concerning a judicial officer. There is a **trend improvement** in this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation

In court annual reports, a section should refer the public to the judicial complaints procedure and include data on the number of judicial complaints received in that year and how they were dealt with. Trend data over a five-year period in relation to this indicator will allow the public to observe whether judicial complaints are rising or falling. This section of the annual report can also educate the public that if a party is dissatisfied with the outcome of any judicial decision this can only be dealt with through the appeals process.

Table 4.9.1 Percentage of complaints received against a judicial officer – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
0% complaints against judicial officers.	0% complaints against judicial officers in the Supreme Court and Yap State Court.	0% complaints against judicial officers of the High Court and Court of Appeal.	0% complaints against judicial officers.	Data unavailable	0% complaints against judicial officers.	Less than 0.1% of complaints against judicial officers based on cases filed in 2014.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	0% complaints against judicial officers.	0% complaints against judicial officers.	0% complaints against judicial officers.	0% complaints against judicial officers.	Data unavailable	1 complaint was received during 2014 in relation to a judicial officer.

Complaints in relation to judicial conduct most often relate to either (i) delay in the delivery of a reserved judgement (this occurs when the judicial officer does not render their judgment immediately at the end of the trial or hearing but reserves their judgment for delivery at a later date) and (ii) judicial conduct that occurs during the hearing of a case.

Including a section in the annual report on judicial conduct and the number of complaints received against judges sends a message to the public that the court takes its complaint handling process seriously and will be transparent about the number of complaints received. It also allows the court to provide information on how the complaints are handled, the nature of the complaints and how the court aims to reduce the scope for complaints of this nature in future. The judiciary of Palau presents this information very clearly in its 2014 Annual Report and provides trend data for the last 5 years on complaints that have been received in relation to its judicial officers.

IV Accountability: Code of Conduct and Complaints

The Judiciary's Code of Judicial Conduct was promulgated on March 1, 2011 by the Palau Supreme Court and amended on March 9, 2011. A copy of the Judicial Code of Conduct can be retrieved from the Palau Judiciary website:

<http://www.palausupremecourt.net>, Rules and Other Publications, Judicial Code of Conduct. In 2014, two complaints were received against judicial officers. There were no complaints made against Judiciary staff in 2014.

Year	Total Cases Filed	Complaints against *JOs	Cases where no complaints made against *JOs	Cases where complaints made against *JOs
2010	774	1	99.87%	0.13%
2011	1035	2	99.81%	0.19%
2012	1983	0	100.00%	0.00%
2013	1997	1	99.95%	0.05%
2014	1983	2	99.90%	0.10%

*JO Judicial Officers–Judges

Table 4.9.2 Percentage of complaints received against a judicial officer – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	Supreme Court 0 High Court 1% District Court 0	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Court of Common Pleas 0%
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court Data not presented in 2007 Magistrates Court Data not presented for 2010	Data unavailable	High Court Data unavailable	Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	The court does not have such a policy for receiving and processing complaints concerning a judicial officer	Supreme Court 0.18% Appeal Court Data Unavailable Island Court Data unavailable

Indicator 10 Complaint Handling and Feedback – Court Staff

Percentage of complaints received concerning a court staff member: The result against this indicator is obtained by dividing the number of complaints received concerning a court staff member by the total number of cases filed.

Key finding

Eleven PJDP countries (79%) presented information on complaints received concerning a court staff member. In the 2011 Baseline Report, only two PJDP countries (14%) (Republic of the Marshall Islands and Vanuatu) presented information on the percentage of complaints received concerning a court staff member. There is a **trend improvement** in this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation

In court annual reports, a section should refer the public to the complaints procedure for members of court staff and include data on the number of complaints related to court staff received in that year and how they were dealt with. Trend data over a five-year period in relation to this indicator will allow the public to observe whether the number of court staff complaints is rising or falling.

Including a section in the annual report on the number of complaints received related to court staff members demonstrates that the court is prepared to be transparent in relation to its complaint handling procedures. A proportion of court staff complaints will relate to dissatisfaction with the outcome of the case or a misunderstanding in relation to court or legal procedures. However, a proportion of complaints will highlight shortcomings in court administrative procedures and suggest areas for improvement in the delivery of court services. The annual report could also report those areas where the court has made improvements or changes over the past year in relation to information received through client feedback and complaints processes.

The Federated States of Micronesia in its 2014 Annual Report was able to report for the first time on the number of complaints against court staff and judicial officers for the FSM Supreme Court and the State Court of Yap. In both jurisdictions, there were no complaints against either court staff or judicial officers.

Table 4.10.1 Percentage of complaints received concerning a court staff member – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
0% complaints against court staff members	0% complaints against court staff in the Supreme Court and Yap State Court	Complaints concerning court staff members were 1% of cases filed in the High Court.	0% complaints against court staff members	Data unavailable	No complaints were received for this reporting period in relation to Court Staff.	No complaints were received for this reporting period in relation to Court Staff.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	0% complaints against court staff members	0% complaints against court staff members	No complaints were received for this reporting period in relation to Court Staff.	2 complaints were received during 2014 in relation to a member of the court staff.	Data unavailable	4 complaints were received during 2014 in relation to a member of the court staff.

Table 4.10.2 Percentage of complaints received against a court staff member – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	Supreme Court 0% High Court 0% District Court 0%	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Court of Common Pleas Data unavailable
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court Data not presented in 2007 Magistrates Court Data not presented for 2010	Data unavailable	High Court Data unavailable	Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	The court does not have such a policy for receiving and processing complaints concerning a court staff member	Supreme Court 1% Appeal Court Data Unavailable Island Court Data unavailable

Indicator 11 Judicial Resources

Average number of cases per judicial officer: The result against this indicator is obtained by dividing the total number of cases filed by the number of judicial officers.

Key finding

12 of the 14 PJDP countries (86%) have one or more courts that are able to present data on the average number of cases for each judicial officer presiding in that court. In the 2011 Baseline Report, eight PJDP countries (57%) presented information on the average number of cases for each judicial officer. There is a **trend improvement** in this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation

PJDP courts should include information in their annual reports on both the number of cases filed and the number of judicial officers that were hearing cases in a particular year. Ideally, trend data over a five-year period will be presented in relation to the ratio of cases to judicial officers. These data are relevant to other performance indicators such as clearance rates (indicator 1), average duration of cases (indicator 2) and percentage of complaints against judicial officers (indicator 9).

The Republic of the Marshall Islands presents trend data over the last five years on the average caseload for its judicial officers at each level of court. An example for the High Court is:

The total number of all High Court cases filed in 2014 was 310. For the two High Court Justices this equates to an average caseload of 155.00 new cases for 2014. These figures are consistent with recent years, although the figures fluctuate:

- *for 2014, 155.00 cases per justice;*
- *for 2013, 156.00 cases per justice;*
- *for 2012, 144.00 cases per justice;*
- *for 2011, 157.50 cases per justice; and*
- *for 2010, 136.00 cases per justice.*

Generally, cases are assigned between the two judges on an alternating basis.⁵⁵

In Palau, there is one judge in the Court of Common Pleas where 1,314 cases were filed in 2014.

⁵⁵ 2014 Report, the Judiciary of the Republic of the Marshall Islands, Part 5. Caseloads for Judges and Clerks.

Table 4.11.1 Average number of cases per judicial officer – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
High Court 7 Judges and 1763 cases filed in 2013/2014.	Supreme Court 102 cases filed and 2 judicial officers.	High Court 4 Judicial officers and 394 cases filed in 2014 Magistrates Court: 145 magistrates and 7346 cases filed in 2014.	High Court 310 cases filed and 2 judicial officers.	Data unavailable	During 2013–2014, there were 8 sitting days for judges and 10 sitting days for the Commissioner and JPs and 334 cases were filed in the Niue High Court.	Supreme Court 4 judges and 390 cases filed. Court of Common Pleas 1314 cases filed and 1 judge. Land Court 270 cases filed and 3 judges.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
National Court 28 judges and 4636 cases filed.	Supreme Court 926 cases filed and 4 judges. District Court: 3051 cases filed and 4 judges.	High Court 434 cases filed and 5 judicial officers.	The number of cases received per Law Commissioner in 2013–2014 is: Atafu 39, Fakaofu 52 and Nukunonu 3.	Supreme Court: 956 cases filed and 2 judicial officers.	Data unavailable	Supreme Court: 6 judges and 710 cases filed.

Table 4.11.2 Average number of cases per judicial officer– 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	High Court Data Unavailable Magistrates Court 23 (2011)	Supreme Court 5.3 (2010) High Court 159.5 (2010) District Court 585.3 (2010)	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Court of Common Pleas 1973 (2010)
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court 135 (2007) Magistrates Court 719 (2010)	Data unavailable	Appeal Court Data unavailable Supreme Court Data unavailable Magistrates Court Data unavailable	68 (2010)	Supreme Court 333 (2010) Magistrates Court 2199 (2010)	Magistrates Court 386 (2010)	Supreme Court 111 (2010) Appeal Court Data Unavailable Island Court Data unavailable

Indicator 12 Court Staff Resources

Average number of cases per member of court staff: The result against this indicator is obtained by dividing the total number of cases filed by the number of court staff.

Key finding

Twelve of the 14 PJDP countries (86%) have one or more court that is able to present data on the average number of cases for each court staff/registry staff member involved in the processing of cases from the date of filing to finalisation. In the 2011 Baseline Report, six PJDP countries (43%) presented information on the average number of cases for each court staff member. There is a **trend improvement** in this indicator over the two years of the Pacific Judicial Development Programme.

Recommendation

PJDP courts should include information in their annual reports on both the number of cases filed and the number of court registry staff that are involved in the processing of cases from the date of filing to finalisation in a particular year. Ideally, trend data over a five-year period will be presented in relation to the ratio of cases to registry staff. These data are relevant to other performance indicators such as clearance rates (indicator 1), average duration of cases (indicator 2) and percentage of complaints against court staff members (indicator 10).

The Republic of the Marshall Islands presents trend data over the last five years on the average caseload for its court staff at each level of court. An example for the High Court is:

For the five clerks that regularly process High Court cases, their 2014 caseload included 62.00 new cases per clerk. As with the justices, the clerks' caseloads fluctuate from year-to-year within a limited range:

- *for 2014, 62.00 cases per clerk;*
- *for 2013, 62.40 cases per clerk;*
- *for 2012, 48.00 cases per clerk;*
- *for 2011, 52.50 cases per clerk; and*
- *for 2010, 45.33 cases per clerk.*

There is some specialization among the clerks, but all clerks handle most functions.⁵⁶

Table 4.12.1 Average number of cases per court staff member – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
High Court 9 court staff and 1763 cases filed in 2013/2014.	Supreme Court 102 cases filed and 6 court staff members.	High Court 8 court staff and 394 cases filed in 2014 Magistrates Court 26 court staff hear 7346 cases filed.	High Court 310 cases filed and 5 High Court staff members.	Data unavailable	High Court 334 cases filed and 6 court staff.	2253 cases filed across all jurisdictions and 20 court staff.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
National Court 133 court staff members and 4636 cases filed.	Supreme Court 926 cases filed and 9 court staff. District Court: 3051 cases filed and 8 court staff.	High Court 434 cases filed and 5–7 court staff.	The number of cases received per Law Clerk in 2013–2014 is: Atafu 39, Fakaofu 52 and Nukunonu 3.	Court of Appeal and Supreme Court: 689 cases filed and 17 court staff.	Data unavailable	Supreme Court 710 cases filed and 8 court staff. Magistrates Court 2258 cases filed and 8 court staff.

Table 4.12.2 Average number of cases per court staff member – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	Supreme Court 1.6 High Court 31.9 District Court 175.6	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Court of Common Pleas 152 (2010)
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court Data unavailable Magistrates Court 175 (2010)	Data unavailable	Appeal Court Data unavailable Supreme Court Data unavailable Magistrates Court Data unavailable	68 (2010)	Supreme Court 111 (2010) Magistrates Court 1709 (2010)	193 (2010)	Supreme Court Data Unavailable Appeal Court Data Unavailable Island Court Data unavailable

Indicator 13 Transparency – Annual Report

Court produces or contributes to an Annual Report that is publicly available in the following year: This indicator is demonstrated through the publication of an annual report in the year immediately following the year that is the subject of the annual report.

Key finding

In 2015, judiciaries in 12 of the 14 PJDP countries produce or contribute to an Annual Report. Ten of the 14 PJDP countries (71%) produced or contributed to an Annual Report⁵⁷ that is publically available in the year immediately following the reporting period. In the 2011 Baseline Report, the Republic of the Marshall Islands was the only judiciary of the 14 PJDP countries that produced its annual report in the year immediately following the reporting period and published it on the Judiciary's web site. There is a **trend improvement** in this indicator over the duration of the Pacific Judicial Development Programme.

Key finding

From 2011–2015, seven of the 14 PJDP judiciaries (50%) issued their first judiciary Annual Report: Cook Islands, FSM, Kiribati, Niue, Palau, Tokelau and Tonga.

Recommendation

PJDP continue to work with PJDP judiciaries to assist with the publication of quality annual reports that provide court performance information to a range of national and international court stakeholders. These annual reports should be published on the PacLII website as well as the court's own website where these exist.

During 2011–2015, the judiciaries in the Cook Islands, Niue and Tonga commenced the practice of issuing a separate Annual Report that provided a much greater level of court performance information than had previously been included in the annual reports prepared by the Ministry of Justice or Department of Justice, Lands and Survey in their country.

Experience over the last five years has shown that the example of one court jurisdiction or division of a court may contribute to broader changes in the court performance reporting within a country. In Niue, the drive and determination of a registration officer in the Land Division lead to an Annual Report being published for the Land Division of the High Court in 2012–2013. This experience led to all divisions of the Niue High Court contributing to an Annual Report in 2013–2014. In Samoa, the Chief Justice and Judge for the new Family Court have decided to produce regular reports for the Family Court and this may be the first step in the Samoan judiciary as a whole producing an Annual Report.

The annual reports of twelve PJDP partner courts are available on PacLII and/or their national website implementing the Regional Justice Performance Framework agreed to by Chief Justices at their meeting in Samoa in March 2012.

⁵⁷ Annual Report includes the Statements made by the Chief Justices of Kiribati and the Solomon Islands at the beginning of the new legal year that summarise the performance of the court in the previous year.

Some of the matters that may be addressed in an annual report are:

Overview of the Court

- About the Court
- Outcome and program
- Strategic initiatives
- Outlook for the coming year
- Regional cooperation
- Court service locations
- Judicial and Court Staff Resources

Report on Court Performance

- Outcomes and outputs in case management
- Mediation outcomes
- Historic performance against Key Performance Indicators/Trend data
- Client feedback and complaints management

Appeals**Significant and noteworthy judgments****Management and Accountability**

- Management of human resources
- Financial management
- Assets management
- Financial Statements

Annual Reports are a way to present to the Executive Government, Parliamentary representatives as well as a broad range of court stakeholders (i) court performance data, (ii) court performance standards and annual results against those standards and (iii) financial statements. Trend data in annual reports over a five-year period allows courts to show how court performance may be linked to the adequate provision of resources.

Table 4.13.1 Court produces or contributes to an Annual Report that is publicly available for the previous year – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
2013–2014 Annual Report available online on the Ministry of Justice and PacLII websites.	2014 FSM Supreme Court Annual Report and 2014 Chuuk State Supreme Court Annual report available online on court websites.	Data available in the speech by the Chief Justice at the opening of the 2015 legal year available on PacLII. 2012–2014 Annual Report being printed and will be available on PacLII.	2014 Annual Report is available on RMI and PacLII websites.	No Annual Report for the last Reporting Period.	Niue High Court Annual Report for 2013–2014 available on PacLII.	2014 Annual Report published and available on Court and PacLII websites.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
2013 Report of the Judges is published but not available online.	Court contributed to the MJCA 2013–2014 Annual Report. This is not yet online.	2012 Annual Report is published but not available online. 2015 Opening of the Legal Year Address by the Chief Justice will be available on PacLII.	2012–2013 Annual report is available online. 2013–2014 Annual Report is in final draft and will be available on PacLII.	2014 Annual Report will be available on PacLII.	No Annual Report for the last Reporting Period.	2014 Annual Report will be available on PacLII.

 No Annual Report for the previous reporting period.

 Annual Report available (although not for the previous reporting period) and/or Annual report is not available online.

 Annual report prepared for the previous reporting period and is available online.

Table 4.13.2 Court produces or contributes to an Annual Report that is publicly available for the previous year – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Online No	Online No	Online No	Online Yes (2010)	Online Yes (2009–2010)	Online Yes (2009–2010)	Online No
Hardcopy Yes (2008)	Hardcopy No	Hardcopy Chief Justice of Kiribati presents a speech containing court performance data at the start of the Legal Year. It is not clear how the public who do not attend this event would otherwise access this information.	Hardcopy Yes (2010)	Hardcopy Yes (2009–2010)	Hardcopy Yes (2009–2010)	Hardcopy Yes (2010 Performance Report to Parliament) but the public has to request the document as it is not referred to on the Palau judiciary website or noticeboard.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court	Online No	Online Yes (2009)	Online No	Online No	Online No	Online Yes (2009)
Online No	Hardcopy Yes (2009)	Hardcopy Yes (2009)	Hardcopy No	Hardcopy Yes (2010)	Hardcopy No	Hardcopy Yes (2010)
Hardcopy Yes (2007)						
Magistrates Court						
Online No						
Hardcopy Yes (1982)						

Indicator 14 Transparency – Court Services Information

Information on court services that is publicly available.

Key finding

9 of the 14 PJDP countries (64%) present information on court services on their websites or through the provision of brochures. In the 2011 Baseline Report, 4 of the 14 PJDP countries presented information on court services on their websites. There is a **trend improvement** in this indicator over the duration of the Pacific Judicial Development Programme.

Recommendation

With approximately one quarter of the population in the PJDP PICs having an income that falls below the basic needs poverty line in that country, and with the majority of court clients appearing in court without legal representation, it is important for Courts to consider how best to convey information on court services to potential court users. The internet is an effective way of presenting information to a range of court stakeholders who may assist disadvantaged groups to access the courts. However, direct engagement with potential court users through posters in health clinics and government offices, radio bulletins or other means is also important as a way of informing potential clients of how they may access the courts for their legal issues.

Table 4.14.2 Information on court services that is publicly available–2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	Information on the RMI courts is available on the website: www.rmicourts.org	Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Information on the Palau courts is available on the website: http://www.palausupremecourt.net/
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Supreme Court and National Court Limited information on the website: http://www.pngjudiciary.gov.pg Magistrates Court Yes, at www.magisterialservices.gov.pg	Data unavailable	Appeal Court Data unavailable Supreme Court Data unavailable Magistrates Court Data unavailable	Data unavailable	Supreme Court Data unavailable Magistrates Court Data unavailable	The Tuvalu National Coordinator has contributed to the provision of information on court services that is publicly available by appearing on radio in Tuvalu.	Supreme Court No information exists Appeal Court Data unavailable Island Court Data unavailable

Table 4.14.1 Information on court services that is publicly available – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Case lists are published via email to parties and the media and placed on a public notice board. Relevant pamphlets are published and made available. Website www.justice.gov.ck	Information on court services is available on the FSM court website.	Customers at the 'Counter Desks' are provided with checklists relevant to their cases. The Court also includes in its Enabling Rights and Judicial Information programmes information to the public.	Information on the RMI court is available on the website: www.rmicourts.org	Other than at a court registry, no information is available on how to bring a case to court or other court services.	Other than at a court registry, no information is available on how to bring a case to court or other court services.	Information on the Palau courts is available on the website: http://www.palausupremecourt.net/
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
National and Supreme Courts of PNG have limited information on: http://www.pngjudiciary.gov.pg Magistrates Court www.magisterialservices.gov.pg	The Family Court in its registries in Apia and Tuasivi also have an information sheet on protection orders. Samoa Victim Support Group also produce a range of information brochures on family law and family violence cases.	Other than at a court registry, no information is available on how to bring a case to court or other court services.	Other than at a court registry, no information is available on how to bring a case to court or other court services.	The superior courts have, in this reporting period, started using the radio to announce cases mainly for the Vava'u circuit courts.	Plain language pamphlets have been developed on the Lands Court, Becoming a Party to Court Proceedings and the Island Court in English and Tuvaluan. Code of Judicial Conduct has also been published.	Other than at a court registry, no information is available on how to bring a case to court or other court services.

Both Palau and Samoa have introduced new family violence legislations in the last two years. In June 2014, the Palau judiciary have published the following written materials on the new law and they are available on the Palau Judiciary website: Family Protection Act: Domestic Abuse Information Handbook, and a Family Protection Act: Domestic Abuse Restraining Orders and Protective Orders Information. The Samoa Victim Support Group publish a range of legal information brochures that provide information on how to proceed with divorce cases, protection orders and a range of sexual violence and harassment criminal cases. The Samoan Family Court also has an information sheet on protection orders in its registries in Apia and Tuasivi.

Kiribati plans to hold a series of Court Open Days in May/June 2015. Talks, court activities, mock hearings will be part of the program. The Courts will invite high school students and hope that a wide cross-section of the community will join the information days.

In Tonga, the superior courts have started using the radio to announce cases and the planning of its circuit courts. For both the Vava'u circuits held in 2014, the information was made available to the public via radio announcements.

Indicator 15 Transparency – Publication of Judgments

Court publishes judgments on the Internet (through PacLII or their own website).

Key finding

13 of the 14 PJDP countries (93%) publish judgments on the internet using the Pacific Legal Information Institute (PacLII) website with 11 of the 14 countries (79%) publishing judgements online for the previous year. In the 2011 Baseline Report, 13 of the 14 PJDP countries (93%) published judgments on the internet using the Pacific Legal Information Institute (PacLII) website with 9 of the 14 countries (64%) publishing judgements online in the previous year. There is a **trend improvement** in this indicator over the duration of the Pacific Judicial Development Programme.

Key finding

10 of the 14 PJDP countries (71%) published decisions from the magistrates or district courts as well as the higher courts. The Marshall Islands and Vanuatu also publish decisions of their Traditional Rights Court and Island Courts on the PacLII website.

Recommendation

PJDP to encourage the publication of judgements from all levels of court on PacLII or national websites to increase understanding in the Pacific region and beyond of the work of Pacific courts.

Recommendation

Chief Justices, at their Leadership Workshop held in October, 2011 in Vanuatu, noted in their concluding resolutions from that meeting that the maintenance of PacLII is essential to the integrity of the judicial systems in the Pacific. To that end, the Chief Justices urge that the PacLII Foundation be funded on an ongoing basis as proposed by the independent review of PacLII.

-  No judgements available online for the last two years
-  Judgements online but not for the previous year
-  Judgements online for the previous year

Table 4.15.1 Court publishes judgments on the Internet (through PacLII or their own website) – Year 4 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
PacLII: May 2015 Court of Appeal and High Court decisions.	PacLII: April 2010 FSM Supreme Court Website: 2004. Supreme Court and State Court decisions.	PacLII: April 2015 Court of Appeal and High Court decisions. Magistrates Court decisions: March 1999.	PacLII: October 2014 RMI Judiciary website 2015. Supreme Court, High Court and Traditional Rights Court decisions.	PacLII: February 2015 Supreme Court and District Court decisions.	PacLII: October 2010 High Court decisions	PacLII: March 2015 Supreme Court and Court of Appeal decisions.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
PacLII: March 2015 Supreme Court and National Court decisions. PacLII: April 2011 District Court decisions	PacLII: May 2015 SamLII: May 2015 Court of Appeal, Supreme Court, High Court and District Court decisions. SamLII: October 1998 (Magistrates Court).	PacLII: May 2015 Court of Appeal and High Court decisions. PacLII: October 2012 Central Magistrates Court decisions.	No judgments published.	PacLII: March 2015 Court of Appeal, Supreme Court and Land Court decisions.	PacLII: March 2015 High Court decisions. PacLII: November 2009 Court of Appeal decisions.	PacLII: May 2015 Supreme Court and Court of Appeal decisions. PacLII: July 2013 Magistrates Court decisions.

Table 4.15.2 Court publishes judgments on the internet (through PacLII or their own website) – 2011 Baseline Report

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
PacLII: December 2011 Court of Appeal & High Court Decisions.	PacLII: April 2010 Supreme Court and State Court Decisions.	PacLII: July 2011 Court of Appeal and High Court decisions.	Court Website: 2011 PacLII: March 2009. Supreme Court, selected High Court and Traditional Rights Court decisions.	PacLII: October 2010 Supreme Court and District Court decisions.	PacLII: October 2010 High Court decisions.	Court Website: 2010 PacLII: January 2012 Supreme Court decisions.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
PacLII: January 2012 Supreme Court, National Court and District court decisions.	PacLII: January 2012 Court of Appeal, Supreme Court and District court decisions.	PacLII: January 2012 Court of Appeal, High Court and Magistrates court decisions.	No judgments published.	PacLII: July 2010 Court of Appeal, Supreme Court and Land Court decisions.	PacLII: July 2011 Court of Appeal and High Court decisions.	PacLII: January 2012 Court of Appeal, Supreme Court, Magistrates Court and Island court decisions.

5

Client focused Courts – Three Case Studies

A Palau Family Protection Act

B Samoa's New Family Court and Family Safety Act

C Addressing Disability Inclusion in PJDP Courts

This section explores how two courts have introduced new family violence legislation and, in the case of Samoa, a new Family Court. The third case study documents how certain jurisdictions across the Pacific have responded to the need to be more responsive to clients with a disability as well as judges and court staff working within the judiciary who may have special needs in the workplace.

Case Study A PALAU

Palau Family Protection Act – providing gender disaggregated data

The Palau Family Protection Act was enacted in 2012. The first family violence cases were brought before the Palau Court of Common Pleas in 2014.

Under the new Act:

- Parties or a person they nominate may seek a temporary and then permanent protection order to prevent family violence.
- These protection orders are free of charge.
- These orders may be obtained 24/7 as there is an emergency phone line for assistance outside court hours.
- Court officials may assist the victim of family violence to complete the application for a temporary protection order.

In June 2014, the Palau judiciary drafted the following written materials on the new law:

- *Family Protection Act: Domestic Abuse Information Handbook, and a*
- *Family Protection Act: Domestic Abuse Restraining Orders and Protective Orders Information.*

In July 2014, a Memorandum of Understanding was signed by relevant agencies in Palau to ensure the successful implementation of the Act. The agencies committed to work together and coordinate their efforts, implement protocols consistent with the Act and offer training.

Despite these information materials there was a limited awareness of this legislation and women were not accessing the courts for their family violence matters.

In September 2014, the Senior Judge of the Court of Common Pleas began a tour of all school Parent and Community groups providing evening information sessions. Almost immediately, family violence case numbers increased. In October 2014, the Senior Judge addressed the Palau Senate on the Family Protection Act during its opening session. This was televised across Palau on the day and for several weeks afterwards.

The judiciary, together with other Family Protection Act agencies, placed the following information in national newspapers:



THE FAMILY PROTECTION ACT
Domestic Abuse Restraining Orders and Protective Orders

**DO YOU NEED PROTECTION?
ARE YOU A VICTIM OF
DOMESTIC ABUSE?**

Go to the Clerk of Courts at the Judiciary complex in Medalaii, Koror and apply for a protection order. A clerk will help provide the necessary paperwork and assist you with filing.

You will NOT be charged a fee.

If it is after regular working hours
Call 775-5013/775-2607/775-7024.

For any EMERGENCY situation, call 9-1-1.

This ad is provided to the public through the coordination of the FPA implementing agencies:
Ministry of Justice, Office of the Attorney General, Ministry of Health,
Ministry of Community & Cultural Affairs, and the Judiciary

OTHER CONTACT INFORMATION INCLUDE:

Police Domestic Abuse Coordinator at 775-5407
Victims of Crimes Assistance Hotline at 775-8622

The number of domestic abuse cases filed in the Supreme Court increased from 5 cases to 16 cases between 2013 and 2014 (a 220% increase) and the number of domestic abuse cases filed in the COCP increased from 39 cases to 95 cases between 2013 and 2014 (a 144% increase).

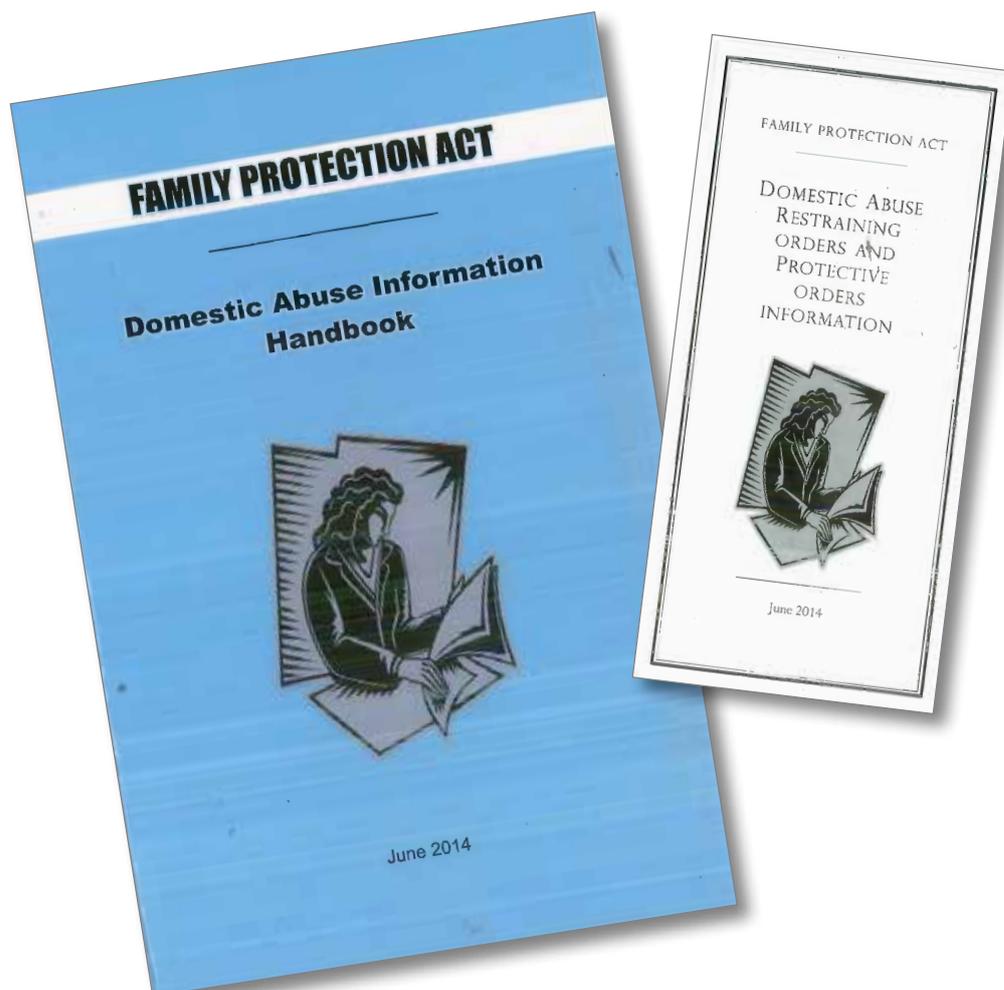
Of these 111 cases, 72% involve a female victim, 6% a male victim and 22% involve multiple victims/other household members.

The information flyer that was placed in newspapers was very effective as it deals with the common concerns faced by victims of violence as to whether: (i) there will be a fee for applications for a protection order, (ii) they can apply for these protection orders over the phone 24/7 and (iii) a court clerk can help them with the application if necessary.

The Palau judiciary data also shows that legal aid was provided to one or more of the parties in 25 of the 28 family law cases filed in 2014 (or 89% of these cases).

In discussion with the Palau judiciary, gender disaggregated data was collected for 2014.

The PJDP Court Annual Reporting Toolkit has tools suggesting the data fields for family law and family violence cases that could be captured over time and these tools can be accessed on the PJDP website.



Case Study B SAMOA

A New Family Court in Samoa Reporting on its First Year

Much has happened in Samoa in the last year through the establishment of a new Family Court in 2014 and a Family Safety Act that was enacted in 2013. Judge Leilani Tuala-Warren was appointed as the first judge in the Family Court and commenced work in August 2013.

The Chief Justice of Samoa and Judge Tuala-Warren have taken the opportunity of the establishment of a new court to consider how best to report on its work to the public in Samoa, the Pacific and beyond. A 2014 Annual Report for the family law and family violence divisions of the district court is currently being drafted for the first year of its operations. This Annual Report presenting the work of the Samoan judiciary in family law and family violence matters may be the first step in a broader annual report for the other courts in Samoa and divisions of the district court.

The new Family Court has jurisdiction to hear matters under the Family Safety Act such as applications for protection orders as well as family law matters such as divorce cases, guardianship, adoption, maintenance and custody under the existing legislations such as the Divorce and Matrimonial Causes Ordinance 1961. Matrimonial property matters are still within the jurisdiction of the Supreme Court and not handled by the Family Court.

The Family Safety Act enables victims of family violence to apply for an interim protection order at a police station, the court or the Samoa Victim Support Group Office. At the court registry in Apia, the Assistant Chief Executive Officer for Probation assists clients in completing the application for a protection order and in typing any supporting affidavits.

The Family Court has a number of initiatives aimed at making its family law and family violence services accessible and affordable to the people. The Court does not charge fees for an application for a protection order. Court clients with family law and family violence matters living on the island of Savaii are able to have their cases heard on that island as the Family Court travels on circuit each month to Savaii. The Family Court has also successfully utilised court-annexed mediation and many cases, including maintenance and custody cases, have been resolved in this manner.

A database on family violence matters has been developed by the Family Court and will allow detailed analysis of these cases through periodic reports to the presiding judge of the Family Court. The database covers the types of issues included in the PJDP Cook Island indicators such as clearance rates and average duration of a case and, in due course, percentage of appeals from the decisions of the Family Court. It also provides data on the relationship between the perpetrator of the violence and the victim and this will be very useful for advocacy and public information dissemination within Samoa.

A very high proportion of all individuals bringing a family violence matter to the Family Court are assisted by the Samoa Victim Support Group. The NGO also provides a range of services including counselling, welfare services and a safe house or shelter. At their office in Apia there are a range of legal information brochures that provide information on how to proceed with divorce cases, protection orders and a range of sexual violence and sexual harassment cases. In 2014, the Samoa Victim Support Group successfully appeared as the Applicant on behalf of a child in a domestic violence case brought under the Family Safety Act (the decision in this case is published on the Samoa Legal Information Institute www.SamLII.org). The Family Court, in its registries in Apia and Tuasivi, also has an information sheet on the procedures for obtaining protection orders.

In its first 16 months of operation, September 2013 – December 2014, the Family Court is able to present data on several of the Cook Island indicators as follows.

1	Clearance rate	Clearance Rate: The result against this indicator is obtained by dividing the number of cases finalised by the number of cases filed.	The Family Violence Court had a 100% clearance rate over this period with 269 criminal family violence cases being filed and finalised and 71 Protection Orders filed and finalised.
3	The percentage of appeals	The percentage of appeals: The result against this indicator is obtained by dividing the number of cases appealed by the number of cases finalised in the level of court jurisdiction from which the appeal is made.	There were no appeals from the Family Court in its family violence or family law jurisdictions.
15	Judgments on PaclII	Court publishes judgments on the Internet (through PaclII or their own website).	Two Family Court cases decided in 2014 are published on the Samoa Legal Information Institute.

The Family Court aims to use the case data both:

- (i) internally – to produce court performance reports on a regular basis for the presiding judge of the Family Court, Chief Justice and court staff working in the Family Court jurisdiction; and
- (ii) externally – to provide more accurate data in the annual report that will allow the Samoan public to understand the new changes in the way family law and family violence matters are now being handled in Samoa.



Case Study **C** DISABILITY INCLUSIVENESS

Addressing Disability Inclusion in Court in PJDP Jurisdictions

Taking steps to make a court more accessible for people living with a disability makes courts more accessible for everyone. This section canvases disability inclusive issues that have arisen in access and fairness surveys, court Annual Reports across the PJDP jurisdictions as well as the results of a survey of PJDP National Coordinators at the 2014 Cook Islands meeting on disability inclusive issues.

Eight of the 14 PJDP countries (Cook Islands, Kiribati, Nauru, Palau, Papua New Guinea, Republic of Marshall Islands, Tuvalu, Vanuatu) had ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) 2007, as at May 2015. The CRPD requires that parties support each other to implement the CRPD, including through ensuring that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law. This requires that people with disabilities are able to access justice systems as direct and indirect participants as well as through working in the administration of justice⁵⁸.

Palau Access and Fairness Survey 2011

In 2011, the Palau judiciary conducted an access and fairness survey. Several client recommendations focused on making the courts more accessible for people with a mobility disability by improving parking for people with a disability and access to the court clerks office and Court of Common Pleas for people with a mobility disability. The Palau judiciary immediately took steps to address these issues.

RMI Judiciary Annual Report 2013

In 2013, the judiciary in the Marshall Islands renovated the court building in Majuro constructing a ground floor courtroom. The 2013 Marshall Islands Judiciary Annual Report included the following section on why it had taken these steps:

The Majuro Courthouse, more than 30 years old, was not designed to house its current occupants: two High Court justices, three TRC judges, two District Court judges, and their staff. ... Furthermore, the RMI Judiciary's two full-sized court rooms were on the second floor and not readily accessible by the disabled and older court users who cannot easily walk up stairs, an unacceptable situation for most land cases before the Traditional Rights Court (TRC).



Opening of the Marshall Islands Ground Floor Courtroom

⁵⁸ Commonwealth of Australia, DFAT, Development for All 2015–2020: Strategy for strengthening disability-inclusive development in Australia's aid program, May 2015, p5. CRPD Articles 2,3,5,12 and 13.

Disability Inclusion Issues in PJDP Courts

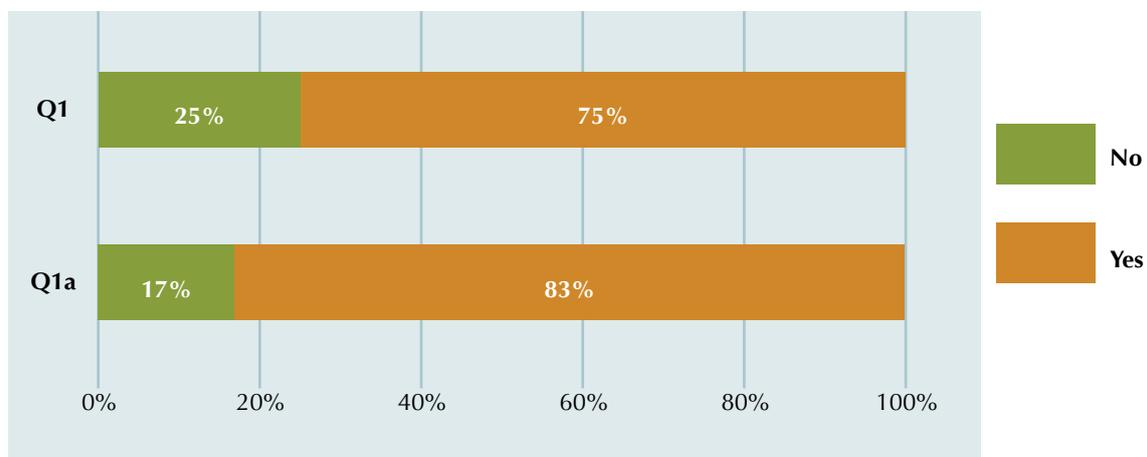
At the National Coordinator's Leadership Workshop in the Cook Islands in 2014, National Coordinators from 12 PJDP countries answered a survey on how Disability Inclusion issues are addressed in their courts. Some of the key findings are set out below:

One quarter of the 12 PJDP partner courts (25%) said they had developed a disability inclusion action plan or policy. However, only 17% of PJDP partner courts have a disability inclusion action plan or policy that is publicly available

Figure 1: Disability inclusion action plan or policy

Question 1 Does your court have a disability inclusion action plan or policy?

Question 1a If the answer above is 'Yes', is it publicly available?



83% of PJDP National Coordinators said that their courtrooms and registry areas were accessible to court users with a mobility disability. This was achieved through a combination of ramps, wide doors for wheelchair access and one level throughout the courtroom.

However, there are less resources and facilities available for court clients with other forms of impairment such as hearing, visual or intellectual impairments.

Questions in the survey addressed whether PJDP courts had appointed judicial officers or court staff with an impairment/disability. Three of 12 PJDP National Coordinators (25%) said that their courts had in the past or currently had judicial officers with an impairment/disability and two of 12 PJDP National Coordinators (17%) said that their courts had in the past or currently had court staff members with an impairment/ disability.

Nine of 12 PJDP National Coordinators (75%) said that their courts offered internships or work experience opportunities for students. However, only three of 12 PJDP National Coordinators (25%) said that their courts offered internships or work experience opportunities for students living with a disability or impairment.

6 Juvenile Disaggregated Data and Indicators

The United Nations Children’s Fund (UNICEF) has published baseline reports for Kiribati, Solomon Islands and Vanuatu in 2009, Palau and the Republic of the Marshall Islands in 2013 and the Federated States of Micronesia in 2014. A baseline report for Samoa is currently being prepared. When this work is completed, half of the PJDP countries will have benefited from a specialist baseline report that presents juvenile disaggregated data and indicators.

The 14 Pacific Island Countries⁵⁹ that UNICEF’s Pacific programme works with are home to about 2.3 million people including 1.2 million children and youth. Kiribati, Marshall Islands, Federated States of Micronesia, Solomon Islands and Tuvalu are classified as Fragile States according to the World Bank/OECD criteria.

The baseline reports that have been completed by UNICEF follow a similar format for each of the six PJDP countries. The reports include performance indicators for the courts in relation to juvenile justice matters. Table 6.1 highlights 11 key indicators related to juvenile justice in which courts play a role either directly or through ensuring that judges do not act in a way that contravenes the Convention on the Rights of the Child and other relevant juvenile justice statements. (The number in the left-hand column of this table refers to the indicator number in the UNICEF baseline reports.)

Key finding

In the six PJDP countries where UNICEF has completed its baseline report, none have an information management mechanism across the sector including a case file management system to reduce delays and ensure efficient flow of cases through all stages of the justice system from arrest to adjudication, including a mechanism to flag and expedite all cases involving children.

Key finding

In the Baseline Report, only the Marshall Islands provided disaggregated data on juvenile justice cases in its Annual Report.

In 2015, six of the 14 PJDP judiciaries provide disaggregated data on juvenile justice cases in their Annual Report: the Cook Islands, FSM, Palau, the Marshall Islands, Tokelau and Vanuatu.

Recommendation

In coordination with the UNICEF Pacific Regional Office, PJDP will work with courts to build their capacity to collect and present in their Annual Reports disaggregated data on children’s cases, including the outcome of the case and the type of sentence that may be imposed.

⁵⁹ UNICEF does not include PNG but does include Fiji in the 14 countries referred to on its Pacific website: http://www.unicef.org/pacificislands/about_2971.html There is a separate UNICEF programme in PNG.

Table 6.1 UNICEF Juvenile justice indicators

	UNICEF baseline report reference	UNICEF Indicator	FSM	Kiribati	Palau	RMI	Solomon Islands	Vanuatu
1	7(1)(c)	In any actions taken, the best interests of the child will be the primary consideration.	Partly	No	Partly	Partly	No	No
2	9(2)	The minimum age of criminal responsibility has been established which is at least 12 years of age.	Partly	Partly	Partly	Partly	Yes	No
3*	9(11)	Children are guaranteed the right to legal representation at all stages of the proceedings. [Judicial practice rule or other policy directive in place requiring that children be legally represented in court.]	Yes	Yes	Partly	Yes	Yes	Yes
4	9(15)	The law gives police, prosecutors and judges a broad discretion to resolve child cases through diversion and these diversionary procedures are specified where appropriate (e.g. mediation, community conferencing).	Partly (some States)	Yes	Partly	No	Partly	No
5	9(19)	All children's cases are heard by a specialized court (or a specialized judge) separately from adult cases.	No	No	Yes	No	Yes	No
6	9(20)	All cases involving children under 18 are required to take place in closed court.	No	No	Yes	No	Yes	No
7	9(31)	Deprivation of liberty is imposed only as a measure of last resort, against children who commit serious crimes of violence or persist in committing other serious offences.	Partly	Yes	Yes	Partly	Yes	Yes
8	9(37)	Children are separated from adults in all places of detention, including police custody, pre-trial detention centres and prisons.	Yes	Partly	Partly	Yes	Yes	Yes
9	9(42) [a]–[f]	Disciplinary procedures within detention centres are strictly regulated and the following are specifically prohibited: corporal punishment, solitary confinement, placement in a dark cell. Any other punishment that may compromise the physical or mental health of the child concerned.	No	No	Yes except for (f) Partly	No	Yes	Yes
10**	9(50)	All children in conflict with the law have access to effective complaints procedures concerning all aspects of their treatment.	No	No	Partly	No	Partly	No
11***	9(53)	Systematic recording and reporting of disaggregated data relating to children's cases. [Including the outcome of the case and any sentence that may be imposed.] Want to observe an increase in the number of cases diverted and children given alternative sentencing.	No	No	No	No	Partly	No

* PJDP Indicator 7: Percentage of cases where a party receives legal aid will capture trend data against this UNICEF indicator.

** PJDP Indicator 8: Documented process for receiving and processing a complaint that is publicly available will capture trend data against this UNICEF indicator.

*** PJDP Indicators 1 & 2: Clearance rates and average duration of a case the children's cases will capture trend data against this UNICEF indicator. An additional indicator that relates to disposition of children's cases will be required in order to capture data on the percentage of cases diverted from the formal justice system and children given alternative/non-custodial sentences.

The UNICEF baseline reports also develop a checklist for compliance against three components for the whole of the justice system as seen in Table 6.2:

Table 6.2 UNICEF baseline reports: checklist for compliance

	Core component	Not compliant	Part compliant	Fully compliant
1	A mechanism (such as an inter-agency working group) exists for collaborative planning, implementing and monitoring by all justice sector agencies (police, prosecutors, lawyers, judges, and prison officials) and with social welfare agencies.	X (Palau, RMI)	X (FSM, Kiribati Solomon Islands)	X (Vanuatu)
2	There is a clearly articulated structure for roles, responsibilities and accountabilities within individual justice agencies and across the system.	X (Kiribati, Solomon Islands, Vanuatu)	X (FSM, Palau, RMI)	
3	There is an information management mechanism across the sector including a case file management system to reduce delays and ensure efficient flow of cases through all stages of the justice system from arrest to adjudication, including a mechanism to flag and expedite all cases involving children.	X (Kiribati, Palau, RMI, Solomon Islands, Vanuatu)	X (FSM)	

7 Gender Disaggregated Data and Indicators

Key finding

In the 2011 PJDP Baseline Report, no PJDP jurisdiction presented gender disaggregated data for any type of case in its Annual Report. In the last four years, several PJDP jurisdictions have passed Family Protection Acts or other family violence legislation. Six of the Annual Reports reviewed for this 2014 Trend Report include gender disaggregated data (Cook Islands, Kiribati, Marshall Islands, Palau, PNG Magistrates Court and Vanuatu). Data are particularly relevant for greater understanding of family law and family violence cases.

Recommendation

There is a global movement to End Violence against Women and Girls that has been endorsed by governments across the Pacific. Annual Reports of courts should include data on the number of domestic violence cases and protection order applications commenced by women each year, an average duration for the finalisation of these cases and an indication of whether the case is resolved in favour of the applicant party for the protection order.

Key finding

All 14 of PJDP countries (100%) are able to provide data on the gender of their judges and magistrates. In particular, the Republic of Palau and the Federated States of Micronesia have an equal number of male and female Supreme Court justices and Kiribati, Samoa and Vanuatu an equal number of magistrates.

Recommendation

Annual Reports of Courts list the judicial officers that have been working with the Court during the year so that data on women's participation as judicial officers in Pacific countries can be collected.

The PJDP Court Annual Reporting Toolkit now contains a tool for the collection and presentation of data on family law and family violence cases and this can be downloaded from the PJDP website. Chapter 5 includes client-focused courts case studies from Palau and Samoa that show how these judiciaries have introduced new family violence legislation and improved how they collect and present data on family law and family violence cases in their Annual Reports.

The Magistrates Courts of PNG and Vanuatu have publicly available data⁶⁰ on the number of domestic violence cases handled each year but do not currently provide information on the gender of the applicant party. The Supreme Court of Vanuatu presents data on the number of sexual violence cases handled each year in its criminal division but does not currently provide information on the gender of the applicant party. The Magisterial Service of PNG

in its 2012 Annual Report provided information by province on the number of pending and completed Interim Protection Order Applications being handled by the Magistrates Court.

Table 7.1 below sets out the gender distribution of Judges and Magistrates in the PJDP countries in 2014. During the last year, Samoa appointed its second female Supreme Court Justice, Her Honour Emma Elizabeth Aitken and its second female District Court judge, Ms Leilani Tuala-Warren appointed to the new Family Court. PNG appointed its first female Chief Magistrate, Ms Nerrie Eliakim to oversee the work of the approximately 90 Magistrates in PNG. In the Republic of the Marshall Islands, one of the three Traditional Rights Court (TRC) judges, Judge Leban, is the first woman to be appointed as a full-time TRC judge.

Table 7.1 2014 Gender Distribution of Judges and Magistrates in the PJDP Countries

Country	Number of Male Judges/ Magistrates	Percentage of Male Judges/ Magistrates	Number of Female Judges/ Magistrates	Percentage of Female Judges/ Magistrates
Cook Islands	High: 13	68%	High: 6	32%
FSM	Supreme: 1	50%	Supreme: 1	50%
Kiribati	Magistrates: 4	50%	Magistrates: 4	50%
Marshall Islands	High: 1 District: 3 TRC: 3 Community: 23	High: 50% District: 100% TRC: 75% Community: 92%	High: 1 District: 0 TRC: 1 Community: 2	High: 50% District: 0% TRC: 25% Community: 8%
Nauru	Supreme: 2 Magistrates: 0	Supreme: 67% Magistrates: 0%	Supreme: 1 Magistrates: 1	Supreme: 33% Magistrates: 100%
Niue	Court of Appeal: 2 High Court: 1	Court of Appeal: 67% High Court: 50%	Court of Appeal: 1 High Court: 1	Court of Appeal: 33% High Court: 50%
Palau	Supreme: 2 Land: 2 COCP: 0	Supreme: 50% Land: 66% COCP: 0%	Supreme: 2 Land: 1 COCP: 1	Supreme: 50% Land: 33% COCP: 100%
PNG	National: 20 Supreme: 24 Magistrates: 64	National: 89% Supreme: 92% Magistrates: 74%	National: 3 Supreme: 2 Magistrates: 22	National: 11% Supreme: 8% Magistrates: 26%
Samoa	Supreme: 3 District Court: 2	Supreme: 75% District Court: 50%	Supreme: 1 District Court: 2	Supreme: 25% District Court: 50%
Solomon Islands	High: 4 Magistrates: 9	High: 100% Magistrates: 75%	High: 0 Magistrates: 3	High: 0% Magistrates: 25%
Tokelau	Law Commissioners: 3	Law Commissioners: 100%	Law Commissioners: 0	Law Commissioners: 0%
Tonga	Court of Appeal: 5 Supreme: 2 Magistrates: 7	Court of Appeal: 100% Supreme: 100% Magistrates: 100%	Court of Appeal: 0 Supreme: 0 Magistrates: 0	Court of Appeal: 0% Supreme: 0% Magistrates: 0%
Tuvalu	High Court: 1 Magistrates: 1	High: 100% Magistrates: 100%	High Court: 0 Magistrates: 0	High Court: 0% Magistrates: 0%
Vanuatu	Supreme: 5 Magistrates: 4	Supreme: 83% Magistrates: 50%	Supreme: 1 Magistrates: 4	Supreme: 17% Magistrates: 50%

8

Regional Justice Performance Framework

Ownership, Results, Trust and Accountability

These four principles underpin many of the international and regional statements on judicial integrity and independence. They also feature in the Fourth High-Level Forum on Aid Effectiveness that took place in Busan, South Korea in December 2011:

- **Ownership of development priorities by developing countries.** Partnerships for development can only succeed if they are led by developing countries, implementing approaches that are tailored to country-specific situations and needs.
- **Focus on results.** Our investments and efforts must have a lasting impact on eradicating poverty and reducing inequality, on sustainable development, and on enhancing developing countries capacities, aligned with the priorities and policies set out by the developing countries themselves.
- **Inclusive development partnerships.** Openness, trust, mutual respect and learning lie at the core of effective partnerships in support of development goals, recognising the different and complementary roles of all actors.
- **Transparency and accountability to each other.** Mutual accountability and accountability to the intended beneficiaries of our co-operation, as well as to our respective citizens, organisations, constituents and shareholders, is critical to delivering results. Transparent practices form the basis for enhanced accountability.⁶¹

Annual reports represent the vehicle through which courts take **ownership** of the work they have completed during the year and present to the public their annual **results** against key performance indicators. In doing so they win the **trust** of the public and are **accountable** to the citizens they serve.

The Chief Justices at their leadership meeting in Apia, Samoa in March 2012 endorsed the following Regional Justice Performance Framework:

The Chief Justices of the countries participating in the Pacific Judicial Development Programme agree to progressively build the capacity of their judicial and court staff colleagues so as to publish court Annual Reports:

- I. on national and Pacific regional websites,
- II. within one year of the end of the reporting period,
- III. that include:
 - a. court performance data and results against the 15 indicators and Recommendations presented in the PJDP Baseline Report,
 - b. court performance standards for each level of court and annual results against those standards,
 - c. a summary of the key findings from any court stakeholder/potential court user surveys and dialogues that have taken place in the previous year,
 - d. financial statements, including Court budget execution statements.

⁶¹ Fourth high-level forum on aid effectiveness, Busan, Republic of Korea 1 December 2011 at www.busanhl4.org

Table 8.1 2011 Baseline Report and 2014 Trend Report Summary of Court Performance Reporting

Indicator of Court Performance	2011 Baseline Report	2014 Trend Report
Able to report on the 15 court performance indicators.	<p>Nine of 14 PJDP countries (64%) report on 5 or less of the 15 court performance indicators.</p> <p>Two of 14 (14%) PJDP countries are able to report on 10 or more of the 15 court performance indicators.</p> <p>There is only one court performance indicator that 10 or more of the PJDP countries can report on.</p>	<p>Two of 14 PJDP countries (14%) report on 5 or less of the 15 court performance indicators.</p> <p>12 of 14 (86%) PJDP countries are able to report on 10 or more of the 15 court performance indicators.</p> <p>There are 12 court performance indicators that 10 or more of the PJDP countries can report on.</p>
PJDP courts produce or contribute to an annual report that is publicly available in the following year.	One of 14 PJDP countries produces or contributes to an annual report that is publicly available in the following year.	Ten of 14 (71%) PJDP countries produce or contribute to an annual report that is publicly available in the following reporting period.
PJDP courts present their court performance standards and data on whether these have been achieved in their Annual Report.	0 of 14 PJDP countries presents court performance standards and data on whether these have been achieved in their annual report.	Two of 14 PJDP countries presents court performance standards and data on whether these have been achieved in their annual report.
Courts regularly analyse the justice needs within their country to better understand what matters to actual and potential court users in the delivery of quality court services through the use of client and court stakeholder surveys and dialogues.	Two of the 14 PJDP countries undertook court user surveys during 2011 (Republic of Palau and PNG).	Three of the 14 PJDP countries undertook a court user survey during 2014 (Federated States of Micronesia, Republic of the Marshall Islands, Palau).

Information on whether courts participating in the Pacific Judicial Development Programme have presented court performance data and results through an Annual Report and whether this is a transparent document that is accessible to the public is set out in Table 8.2.

Table 8.2 14 PJDP partner judiciaries and transparency of court performance information 2011–2015

Country (website)	Annual Report or data presented in the PJDP 2011 Baseline Report		Annual Report or data presented in the 2012 Trend Report	
	2011 Baseline Year Annual Report	Annual Report on website Yes/ No	2012 Trend Report Annual Report	
Cook Islands http://www.justice.gov.ck/	2007–2008	NO	2011–2012	
Federated States of Micronesia http://www.fsmlaw.org/fsm/index.htm www.fsmsupremecourt.org	No Annual Report	NO	2012	
Kiribati (no website)	Address by CJ at opening of 2012 Legal Year (2011 data)	NO	Address by CJ at opening of 2013 Legal Year (2012 data)	
Republic of the Marshall Islands http://rmicourts.org/	2010	YES on PaCLII and own court website	2011	
Nauru http://ronlaw.gov.nr/nauru_lpms/	2009–2010	YES on PaCLII website	No new data publicly available	
Niue (no website)	2009–2010	YES on PaCLII website	2011–2012	
Palau http://www.palau.gov.net/judiciary/ http://www.palausupremecourt.net/	Court Data 2010	NO	Court Data 2012	
Papua New Guinea Supreme & National Court http://www.pngjudiciary.gov.pg/	2004–2007	NO	No new data publicly available	
Papua New Guinea Magistrates Court http://www.magisterialservices.gov.pg/	1982	NO	Court Data from 2011 Annual Report	
Samoa http://mjca.gov.ws http://www.samlii.org/	2008–2009	YES on Parliamentary website	2011–2012	
Solomon Islands (no website)	2009	YES on PaCLII website	Address by CJ at opening of the Legal Year 2013 (2012 data)	
Tokelau (no website)	Court Data 2010–2011	NO	2011–2012	
Tonga http://www.pmo.gov.to/people/tongan-judiciary-system http://www.justice.gov.to	2010	NO	2011	
Tuvalu (no website)	No Annual Report	NO	No Annual Report	
Vanuatu (no website)	2010	YES on PaCLII website	2011	

Do not issue an Annual Report/Chief Justice address.

Issue an Annual Report/Chief Justice address but is not available on the internet.

		Intervening Annual Report		Annual Report or data presented in the 2014 Trend Report		
	Annual Report on website Yes/ No	Intervening Annual Report	Annual Report on website Yes/ No	2014 Trend Report Annual Report	Annual Report on website Yes/ No	How Many Annual Reports Between 2011–2014
	Yes on PaCLII and own Court website	2012–2013	YES on PaCLII and own court website	2013–2014	YES on own court website	3 Annual Reports (3 on website)
	YES on own court website	2013	YES on own court website	2014	YES on own court website	3 Annual Reports (3 on website)
	YES on PaCLII website	Address by CJ at opening of 2014 Legal Year (2013 data)	YES on own court website	Address by CJ at opening of 2015 Legal Year (2014 data) 2014 AR in draft	Yes on PaCLII	4 opening speeches (3 on website) 1 Annual Report
	YES on PaCLII and own court website	2012	YES on PaCLII and own court website	2013 and 2014	YES on own court website only	5 Annual Reports (all on website)
	NO	No new data publicly available	NO	No new data publicly available	NO	1 Annual Report (available online)
	YES on PaCLII website	2012–2013 High Court Land Division	YES on PaCLII website	2013–2014	YES	4 Annual Reports (3 on website)
	NO	2013	Yes on PaCLII website	2014	Yes on own website and PaCLII website	2 Annual Reports (2 on website)
	NO	2009 & 2010	NO	2013	NO	3 Annual Reports (not available online)
	NO	No new data publicly available	NO	2012	NO	2 Annual Reports (not available online)
	YES on Parliamentary website	2012–2013	YES on Parliamentary website	Court contributes to 2013–2014 MJCA Annual Report	NO	4 Annual Reports (3 on website)
	YES on PaCLII website	Address by CJ at opening of the Legal Year 2014 (2013 data)	NO	Address by CJ at opening of the Legal Year 2015 (2014 data) 2012 Annual Report	NO	2 Annual Reports (1 on website) 2 opening addresses (1 on website)
	YES on PaCLII website	2012–2013	YES	2013–2014 AR in draft format	NO	3 Annual Reports (2 on website)
	YES on PaCLII website	2012–2013 and July–Dec 2013	YES on PaCLII website	2014	NO	4.5 Annual Reports (2.5 on website)
	NO	No Annual Report	NO	No Annual Report	NO	0
	YES on PaCLII website	2012; 2013	YES 2012 on PaCLII website	2014	NO	5 Annual Reports (3 on website)

Issue an Annual Report/Chief Justice address and is available on the internet.

References

PJDP Country Court Annual Reports

The information presented in this 2014 PJDP Trend Report is based on the Annual Report or other public documents listed below. For some jurisdictions, this has been supplemented by additional information presented by PJDP courts:

Table 4.1 Data for 2014 Court Trend Report

	Annual Report or Year of Court data referred to in the Trend Report (hardcopy or e-copy on file)	Court Website	Annual Report on website; if Yes what is the latest year
Cook Islands	Annual Report 2013–2014	YES http://www.justice.gov.ck	YES 2013–2014 Ministry of Justice website
Federated States of Micronesia	Annual Report 2014	YES www.fsmsupremecourt.org	YES 2014 Court website
Kiribati	Address by Chief Justice Sir John Muria at the formal opening of 2015 (2014 data) 2014 AR draft format	YES	YES Address by Chief Justice Sir John Muria at the formal opening of 2015 (2014 data) PacLII website
Marshall Islands	Annual Report 2014	YES http://rmicourts.org/	YES 2014 Court website
Nauru	No new data publicly available	NO	YES 2009–2010 PacLII website
Niue	Annual Report 2013–2014	NO	YES 2013–2014 PacLII website
Palau	Annual Report 2014	YES http://www.palausupremecourt.net/	YES 2014 Court website and PacLII
PNG Supreme & National Courts	Annual Report 2013	YES www.pngjudiciary.gov.pg	NO
PNG Magistrates Court	Annual Report 2012	YES http://www.magisterialservices.gov.pg/	NO
Samoa	Court data contributed to MJCA Annual Report 2013–2014	http://www.mjca.gov.ws/ http://www.samlii.org/	YES MJCA 2012–2013 Annual Report available on Parliamentary website
Solomon Islands	Annual Report 2012	NO	YES 2015 Opening Address of the Legal Year* (2014 data) PacLII website
Tokelau	Annual Report 2013–2014 in draft format	NO	YES 2012–2013 PacLII website
Tonga	Annual Report 2014	YES http://www.justice.gov.to	YES 2014 PacLII website*
Tuvalu	No Annual Report	NO	NO
Vanuatu	Annual Report 2014	NO	YES 2014 PacLII website*

* National Coordinator advised that Annual Report or Opening of the Legal Year Address had been finalised and once approved would be sent to PacLII.

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