



PACIFIC JUDICIAL DEVELOPMENT PROGRAMME

PJDP Phase 2: JUDICIAL ADMINISTRATION DIAGNOSTIC PROJECT Regional Registry Systems and Processes Report

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ABSTRACT - This paper summarises the findings of Component 3 of the PJDP that examined the thematic area of judicial administration to enhance the professional competence of court officers and the processes and systems in use in the Pacific Island Countries of Vanuatu, the Solomon Islands and Tonga. The penultimate finding of the Judicial Administration Diagnostic Project is that several management and court administration needs are common across the three Pacific Island Country case studies. The most significant of these relate to leadership, court management and case management. There are a range of activities that can be developed and implemented through a regional delivery model to improve court management, registry systems and processes. These potential regional activities however need to be considered in a long term context and do not negate the need for national initiatives and bilateral assistance.

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ABBREVIATIONS AND ACRONYMS

ITC	-	Information Communication Technology
JADP	-	Judicial Administration Diagnostic Project
NC	-	National Coordinator
PIC	-	Pacific Island Country
PJDP	-	Pacific Judicial Development Programme
PNG	-	Papua New Guinea
RAMSI	-	Regional and Assistance Mission to the Solomon Islands
ToT	-	Training of Trainers
USP	-	University of the South Pacific



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It is an honour and privilege to have worked with the judiciary, court personnel and other stakeholders in the justice systems of Tonga, Vanuatu and the Solomon Islands. Sincere thanks are extended to the Honourable Chief Justices and the staff of their judiciaries whose experience and insights were invaluable.

The unending assistance of PJDP counterparts and National Coordinator is warmly appreciated, as is the contribution of the numerous court staff and members of the international community who provided their time and insights and as well as PJDP colleagues.



1.0 INTRODUCTION

This paper summarises the findings of Component 3 of the PJDP that examined the thematic area of judicial administration to enhance the professional competence of court officers and the processes and systems in use. The project explored the hypothesis that improvement of court administration can be regionally aggregated and if so, to specify whether ongoing registry development activities can or should be undertaken on a national or regional basis. The Pacific Island Countries of Vanuatu, the Solomon Islands and Tonga ranked the JADP as their first priority and were the principle sub-regional participants and case studies for the project.

The assessor developed a customised diagnostic tool drawing upon the internationally regarded *Court Excellence Framework*¹, *CourTools* performance measures developed by the National Centre for State Court in the USA and World Bank approaches. In addition, the assessor took into account organisational psychology and special environmental conditions that are present in the context of transitional or post-conflict settings². A high degree of interactivity and co-operation was experienced in all JADP PIC's. JADP completed a three-week diagnostic mission to Vanuatu in June 2011, a two-week diagnostic mission to Tonga in August 2011 and a three-week mission to the Solomon Islands in October 2011.

The adviser presented an interim issues paper at the regional Chief Justice's and National Co-ordinator's conference in the Cook Islands and to the PJDP Chief Justice's Regional Workshop in Vanuatu in October 2011 and integrated feedback into the end analysis. The adviser returned to each PIC and developed improvement plans with counterparts based upon the assessment findings and other contributions.

2.0 EXECUTIVE SUMMARY

2.1 FINDING

The penultimate finding of JADP is that several management and court administration needs are common across the three PIC case studies. The most significant of these relate to court specific leadership and management and case management. There are a range of activities that can be developed and implemented through a regional delivery model to improve court management, registry systems and processes. These potential regional activities however need to be considered in a long term context and do not negate the need for national initiatives and bilateral assistance.

2.2 PRINCIPAL RECOMMENDATIONS

- **Judiciary governance, leadership, management and change management**

For delivery on a regional basis it is recommended that judiciary leaders and managers be supported with training and development opportunities and tools to assist them to carry out their onerous and complex duties, especially in relation to judiciary governance, leadership, court management and change.

- **Case management, delay reduction and case flow management**

For delivery on a regional basis it is recommended that case management, delay reduction and case flow management goals, methods and techniques be developed and harmonised locally for potential implementation.

¹ The International Consortium for Court Excellence.

² The resulting diagnostic framework is called PEPPER.



- **Manuals and best practice guides**

For delivery on a regional basis it is recommended that manuals and best practice guides, codes, policies and other guiding literature be developed as Pacific region models for local harmonisation and potential implementation.

- **Information Technology – including electronics sound recording**

For delivery on a regional basis it is recommended that an Information Communication Technology centre and network be established to share knowledge, expertise and develop best practice. This should include issues related to electronic sound recording of evidence.

- **Legal Process, file and information management**

For delivery on a regional basis it is recommended that standardisation of process, file and information management systems be developed and harmonised locally for potential implementation.

- **Human rights, gender and sustainability**

For delivery on a regional basis it is recommended that:

- a. plans for the professional development and succession of local judges and women to the bench be developed and that the concept of a regional panel of Appellate Court judges be further explored; and
- b. court personnel be provided awareness education in relation to their role as guardians of judicial independence, human rights and the fair and timely administration of justice.

2.3 RECOMMENDATION FOR REGIONAL DELIVERY MODEL

JADP proposes a regional delivery methodology that is centred in a PIC. The concept envisages greater project participation and an increase in responsibilities for PIC counterparts. A central project office might oversee and guide the development of court administration tools, the design and co-ordination of training using local ToT accredited personnel and international experts. The PJDP Chief Justice's Workshop could act as a vehicle to approve and support the products and initiatives of a regional Court Management & Administration Project, for example.

This project team could also draw upon other developments in the PIC's and adapt them for regional expansion. For example, PNG has developed a helpful body of guiding literature, Vanuatu has a sleek *Guide for Administrative Procedures* and the Solomon Islands has developed a good methodology for documenting and developing procedure guides for individual jobs. There is also potential to roll out IT software and case management concepts.



3.0 THE CASE STUDIES

3.1 CASE STUDY 1 – VANUATU

With determined local leadership and dedicated staff, the court has become independent of the Executive apparatus, administers a decentralised budget and its own human resources, including court staff. The judiciary and institution is regarded highly as fair, independent and of integrity.

The greatest point of weakness and most immediate issue the Judiciary needs to continue to focus on is the backlog of judgments outstanding in some jurisdictions and the backlog of land cases in the Island Courts, some which pre-date 2001. Action is underway to address these issues with the best resources available; however a long-term solution requires technical assistance to sustainably improve case and file management, information management, outreach, and other associated operational systems and processes that are currently beyond current capacity.

Outwardly, the judiciary continues to break through new frontiers in relation to its position and relationships in the framework of government and is challenged to reach the 76% of the population that live in rural or remote island communities. Inwardly, through this assessment and other initiatives, the court seeks to improve its performance, internal operations and service delivery.

A major challenge is to strengthen central management structures to ensure that corporate services assumed in the transition to autonomy are properly set up and maintained. The courts have outgrown current arrangements and capacity, causing delay as the courts struggle to deal with the demands and complications of the incoming caseload. Blockages are occurring at the executive management level of the court where the portfolio of the Chief Registrar is simply too large, making it difficult to cope with every day operations and to co-ordinate reform in a methodical way.

Current systems rely upon the loyalty and commitment of staff to carry things through despite lacking resources and knowledge, and a management model that concentrates all management matters in two key people: the Chief Justice and the Chief Registrar. The problem with this model is that it does not distribute responsibilities and ownership of change sufficiently down the organisational or judicial hierarchy and the key players become overburdened. To overcome this, the management team could be strengthened and a *Judiciary Executive Management Committee* established to provide structure and clear lines of accountability.

Operations are affected by a lack of supervisory and quality control systems. This causes case and file management systems to break down and judges to be overly burdened with routine administrative issues. There is a clear need for more staff in both the Supreme Court Registry and Magistrates Court Registry and in both courts there is a lack of experienced and trained staff to assume supervisory roles. Supervision and oversight systems are weak in the Island Courts, with a need for Supervising Magistrates to consequently carry out their supervisory functions and a framework for audit and performance control required. ICT is well integrated, however systems are home grown and lacking a centralised database. Many resources are consumed in running individual desktop systems in parallel to registers and other manual systems. The court would benefit enormously from a complete electronic case management system; however the court needs to improve current manual operating systems first.

Every court visited suffered in some significant way from a lack of funding, problems with accommodation, and lack of tools and equipment. The accommodation arrangements for the Supreme Court are temporary, pending the building of a new court complex. They are however dreadfully inadequate and their split locations and lack of facilities hamper performance and efficiency significantly. Overall, a very positive platform exists to invest in judicial administration strengthening initiatives.



3.2 CASE STUDY 2 – TONGA

The courts of Tonga are undergoing a self-led programme of determined reform to improve the quality and effectiveness of internal court operations, case throughput times and human capacity and sought the assistance of JADP to support this process. The integrity of the court is intact and ethical standards of the judiciary and court staff appear sound. Courts sit constantly and proceedings appear reasonably well managed and cases in all jurisdictions (as can be ascertained) are heard without discernible delay.

At the time of the assessment, the propagators of inefficiency could mostly be traced back to a lack of organised and unified management and accountability systems and a misconnection in relationships and capabilities between the Ministry of Justice and the courts, particularly in relation to decision making about fiscal and human resource allocations. On the second mission to Tonga, some of these issues were improving as the Executive and courts were aligning to determine the functional divisions of the new constitutionally embedded Office of the Lord Chancellor.

During the assessment in August 2011 the courts were hindered by a lack of capacity, know-how, common will and teamwork. A lot of emotion was invested in worrying about issues peripheral to the courts' core performance and more attention needed to be given inwardly to quality, timeliness and the maximisation of available resources in a way that was service oriented, particularly toward the judiciary. There was a marked improvement to be observed after the assessor's second visit.

Whilst the courts appear adequately staffed, inadequate supervisory structures, overly restrictive policies in relation to the deployment of resources and expenditures limit the ability of leaders to lead. Underlying it all is the absence of a structured way to think about court performance and standards and little ownership and follow through in relation to basic procedures. The reporting lines of the Magistrates Court and Supreme Court are not unified, preventing the offering of multijurisdictional court services and a general isolation of the Magistrates Court.

Goals and standards for the timely disposition of cases and more complete reporting of the workload are needed to help the organisation focus on the individuality of each case and the delivery of timely and quality justice. Strengthening case management will also provide structures around which internal processes and file management can be improved.

An audit of the Supreme Court caseload uncovered concerning failures in registry systems and processes. As in other PIC's, children are not necessarily identified in the system and afforded their due rights to legal representation, a closed court and other universal practices that ensure they are dealt with appropriately in the justice system. Case management systems in the registries are however being improved, but this is hampered as day-to-day supervision at the registry level is lacking and quality checking regimes indiscernible.

The court is advanced with technology compared to other jurisdictions in the Pacific and court staff are competent and confident using the technology. This is largely attributable to the judiciary having received significant development assistance with the introduction of an electronic case management system in 2006. Information technology technical assistance is close by and supportive of innovation, however the unit struggles to conclude projects and could be better organised and integrated into the operational business of the court. There needs to be a greater use of performance management data and information that is routinely extracted from the system and used for management purposes.

Court services could be streamlined so that courts can focus on their core function of determining cases. Therefore the Office of Vital Statistics should, for legal and operational reasons, be separated from the court



to a new Department of the Registrar General and the function of certifying documents removed from the court entirely or drastically refined.

There is support for greater representation of Tongan nationals and women on the bench. This requires an assertive strategy to make it happen by growing talent from within the court itself.

3.3 CASE STUDY 3 – SOLOMON ISLANDS

In the last decade the Solomon Islands experienced a breakdown of law and order that destabilised its democratic structures and left the courts barely functioning. In this context judicial reform has been a key priority to ensure the nation maintains the rule of law and proper systems of judicial administration. Assisting the nation and the judiciary since 2003 RAMSI has, along with the stable leadership of the Chief Justice and others, made significant progress toward rebuilding justice administration from a point where the courts were barely functioning.

There has been a high emphasis on the positioning of judicial sector organs in government structures and to cross-sectoral relations. In the process the judiciary has transitioned away from an Executive driven model of governance toward an autonomous model, which should grant the judiciary greater independence and control over human and financial resources. Physical infrastructures are rebuilt, human resource establishments have stabilised and basic skills training conducted for court staff. Criminal matters arising from the period of destabilisation have largely been dealt with by way of a dedicated 'tension trials' tribunal. Corporate services and support to courts are restored, albeit in an austere fiscal environment. Corporate plans and systems are in place and reporting structures reviewed. Permanent international advisers have worked hard in operational positions to provide technical and strategic support.

Amongst the international community and judiciary it is generally agreed that the focus on restoring operations was necessary; however it is felt that it has been to the detriment of sustainable reform of internal court operations and that progress to improve weaknesses at the court management and registry level has been marginal as a result. This assessment confirms that view, finding that reactive sequencing of reform has resulted in patchy progress that is insufficiently focused on the central business systems of the courts – case management.

There remain fundamental deficiencies in management and accountability mechanisms surrounding case management and processing systems, questionable work ethics in some areas, a very late focus on a complex backlog at the Local Court and Customary Land Appeal Court levels. There is a lack of performance reporting and little concrete information about the real work and productivity of the courts. A continual change in technical advisers is reported to have made it difficult for the Magistrates Court to see through reform, creating disjointed reform. These combined issues appear to inhibit the National Judiciary's ability to decipher the priorities for reform.

The assessment's principal finding is that the judiciary should turn its primary focus to developing goals for case processing and reform associated systems so that court leaders know with precision how the courts are functioning in order to determine priorities and steer decision making. This in turn should provide direction to court staff and a platform for the cultural and attitudinal changes necessary for the court to produce quality and timely work. It can also help address the inordinate levels of absenteeism. This should be supported by a comprehensive focus on ICT that assists the monitoring and measuring court performance.

The operational challenge that the judiciary experiences in servicing its constituency of nearly 600,000 people dispersed over many of the 922 islands is significant, particularly for the Magistrates Court. Recognising this, RAMSI commissioned a Magistrates Courts Sustainability Taskforce. The Taskforce made



extensive recommendations for change, some of which have since guided reform; however the framework is yet to be wholeheartedly embraced or resourced by the National Judiciary. Currently it is not clear how the recommendations fit into the total judiciary reform agenda. This strategic uncertainty and the need to improve co-ordination and organisation at the management level of the Magistrates courts leads to a substantial loss of opportunity for the court to improve its operations and culture, which is unfortunate given the intensity of international assistance potentially available to it through RAMSI.

4.0 COMPARATIVE ANALYSIS & RECOMMENDATIONS

4.1 JUDICIARY GOVERNANCE, LEADERSHIP, MANAGEMENT AND CHANGE MANAGEMENT

Finding: Each of the operating environments are very challenging and complex. Challenges ranged from macro issues of constitutional positioning, court governance, building court complexes, to basic issues of ensuring attendance at work and compliance with proper administrative practices. There is a lack of senior management cadre and ineffective identification and redress of obvious problems. Poor performance is not generally addressed in a systematic or personal way.

The prioritisation and relevance of issues of a longer-term nature are constrained by the problems of coping with day-to-day events. Management is sometimes by crisis or some matters are completely ignored.

Most court leaders are trained lawyers or have considerable career experience, however have little or no training or experience in management before assuming complicated leadership positions. The role of a court leader, manager or supervisor however is demanding and requires management capabilities, business acumen and a range of other skills.

Cause: Achieving efficiency and quality of registry processes and procedures is a complex and multifaceted endeavour. The management disciplines include the sciences of constitutionalism, law, politics, psychology, human resource management and organisational development, in addition to management and business. Achieving success in the context of scarce resources, isolation and geographic diversity is demanding and aside from senior judiciary leaders, there is a scarcity of knowledge, skills and attitudes to properly change and improve the court institution.

There is little consistency in direction setting or measuring performance and quality. Management information collection methods are out-dated and require revision and strict implementation.

Traditional relations, which are characterised by group approaches to work, generally fail to bring people to account. This is at odds with modern and proper court administration that requires clear lines of responsibility and accountability to be observed and assertive behaviours to achieve success.

4.1.1 RECOMMENDATION 1

For delivery on a regional basis it is recommended that judiciary leaders and managers be supported with training and development opportunities and tools to assist them to carry out their onerous and complex duties, especially in relation to judiciary governance, leadership, court management and change.

The following implementation steps could be taken:

- Court specific leadership training and developed and conducted³
- Accountability frameworks and reporting guidelines (M&E) developed and implemented

³ These skills, knowledge and abilities training envisaged is attached as Annex 1.



- Templates for court performance management developed
- Templates for oversight, control & audit developed
- Workshops or discussion forums on common issues e.g.: governance & independence of the judicial organisation conducted
- Judicial Management and Administration Guide Books for court leaders⁴ produced
- Change and Communication Frameworks and strategies developed and implemented
- Use local ToT certified staff or the Responsive Fund to engage local trainers to develop a curriculum and training course in generic supervisory and office management principles.

4.2 CASE MANAGEMENT, DELAY REDUCTION AND CASE FLOW MANAGEMENT

Finding: There is a lack of knowledge and emphasis placed upon case management and case-flow management with little predictability and systemisation to support the timely disposal of cases. There are no transparent time goals, differentiation of cases (inc. youth cases), or systematics for the conduct of pre-trial or preliminary hearings that are designed to assess priorities, urgency, causation and other matters.

There are serious backlogs of cases in some courts. In particular, land cases are particularly problematic and difficult to schedule and co-ordinate. In some cases, backlogs of land cases have caused civil unrest. Serious human rights issues have arisen which can be attributable to a lack of routine audit and crosschecking.

Most jurisdictions operate on a judge driven docket and cases are not systematically tracked, monitored and reported effectively. Judges are responsible for the preparation of cases and often perform administrative duties and corrections, as follow-up systems in most registries are weak and need more rigor and purpose.

Cause: A robust goal and team orientated approach to case management and administration is generally not apparent. Court leadership, the judiciary and court managers do not have sufficient oversight of the caseload and reporting systems are inadequate to permit overarching co-ordination of resources and identification of delay. This is because case tracking systems are inadequate and manual systems are run in parallel with electronic systems that result in duplication of information and inefficient use of resources.

4.2.1 RECOMMENDATION 2

For delivery on a regional basis it is recommended that case management, delay reduction and case flow management goals, methods and techniques be developed and harmonised locally for potential implementation.

The following implementation steps could be taken:

- Organisational global timeliness goals developed and implemented
- Time goals for each case type in each jurisdiction developed and implemented
- Criteria and systems for differential case management within selected case types developed and implemented
- Locally sustainable practices and procedures for selected case types developed and implemented

⁴ Akin to the *Manual of Judicial Administration* in Papua New Guinea or *Deskbook for Chief Judges of the U.S. District Courts*.



- Best practice models for delay and backlog reduction, especially land matters, developed and implemented
- Template roles and responsibilities for judicial officer developed
- Training and development using ToT accredited trainers conducted.

4.3 POLICY, MANUALS AND BEST PRACTICE GUIDES

Finding: Overall procedures and processes seem to be learnt on the job or derived from disparate sources of literature. Processes are sometimes inconsistent, improvised and organic. This results in waning compliance when staff are not continually supervised and trained. Staff also become insecure and less productive as a result. The result of this is compounding inefficiency that affects processing streams and service delivery.

Cause: The body of literature, rules, policy, procedures, practice direction and articles that guide process are fragmented, sometimes archaic, difficult to find or non-existent. Depending upon the topic, the production of this material can be the responsibility of the Ministry of Justice or the court itself. Courts are making an effort independently to produce governing articles (e.g.: Vanuatu's Book of Internal Administrative Rules) however, there clearly needs to be some concentrated assistance given to consolidating this basic material.

The judiciary has the power to draw up general and binding rules on substantive issues and procedures and to set policy and operating standards. Much of the material is generic and requires only modest customisation to local conditions.

4.3.1 RECOMMENDATION 3

For delivery on a regional basis it is recommended that manuals and best practice guides, codes, policies and other guiding literature be developed as Pacific region models for local harmonisation and potential implementation.

The following implementation steps could be taken:

- active & standardisation guides for file & information management developed
- General guide for good case management practices developed
- Codes of conduct for court personnel developed
- Performance monitoring, discipline, counselling & grievances policies & procedures developed
- Customer service charters developed and training conducted
- Communication frameworks developed and training conducted
- Practice guides & training materials for the electronic sound recording of proceedings developed
- Other common policy developed.

4.4 INFORMATION TECHNOLOGY – INCLUDING ELECTRONIC SOUND RECORDING

Finding: Current benefits of technology are marginal in terms of both efficiency and effectiveness, with the exception of word processing applications. Manual systems have not been retired and dual systems are maintained adding a significant burden to already stretched resources. Effectiveness of current systems is hampered by undisciplined data entry and general deficiencies in frontline staff skills.



The Solomon Islands and Tonga have Case Management Systems that are modest custom-made Microsoft Access systems with a database. These systems provide good levels of support when they are working well and there is sufficient hardware and materials to support the systems. Vanuatu relies upon Microsoft Word and Excel systems that are wholly inadequate and results in significant duplication occurring.

Internet services are improving in reach and quality rapidly. "Cloud computing" may be a potential option to overcome some current constraints.

Electronic sound recording of court proceedings exists in the Solomon Islands and Tonga in higher jurisdictions. Systems in place appear to work well, however the resources needed for transcribing places pressure on administrative resources. There are no electronically recorded proceedings in Vanuatu.

Cause: Quality in ITC developments are hard to achieve quickly or cheaply and in any context. A satisfactory system takes many years and considerable resources to become acceptably functional. Currently in each PIC, ICT will only be a real benefit when existing ledger and other paper processes operate efficiently. Deficiencies in current systems require redress and from that point, IT systems can be designed and implemented with greater chances of success.

Specialist skills to provide continued software development and technical support are deficient, save for Tonga where an IT department of three support the courts and Ministry of Justice. Even with this support, the system is not adequately reliable, not producing proper reports or developing in step with the court's needs. Capital and recurrent funding to support systems are scarce and unreliable. Public infrastructure deficiencies mean that electricity may cut out. This contributes to a reluctance to give up using manual systems.

4.4.1 RECOMMENDATION 4

For delivery on a regional basis it is recommended that an Information Communication Technology centre and network be established to share knowledge, expertise and develop best practice. This should include issues related to electronic sound recording of evidence.

The following implementation steps could be taken:

- That an IT Expert Support Partner⁵ be identified to act as a regional and virtual ICT User Support Centre to assist, train, mentor and facilitate an information exchange network with all regional PIC's
- The above partner could be responsible for guiding future ICT development: whether to build, buy, borrow or use "cloud" software and systems
- Support existing PIC IT personnel e.g.: in Tonga, identify and assist with the replication of successful systems (e.g.: Tonga and Solomon Islands)
- Provide support for the identification of suitable sound recording systems and implementation
- Support focus on maximising efficiency and effectiveness of existing manual systems and the development of associated administrative skills first before turning fully to ICT for solutions.

⁵ This may be an IT section of an established court in New Zealand or Australia.



4.5 LEGAL PROCESS, FILE AND INFORMATION MANAGEMENT

Finding: In most jurisdictions (particularly lower jurisdictions) the quality of information and file management is inconsistent and inefficient and there is a general mistrust and dissatisfaction with the system. This has a major impact upon the timeliness and quality of justice and services to internal and external clients.

The generic issues are:

- matters are left unmanaged – “fall through the cracks”
- defects are not detected early enough
- too much repetition of the same information⁶
- too many files misplaced
- too much retention of files by individual officers
- lack of use of files as the major source of information
- overuse of registers
- a general distrust and dissatisfaction in the system
- forms are out-dated and not multi-lingual
- difficulty in acquiring the full range of stationery items in country.

Cause: There is a lack of review, audit, culling and file tracking systems. Full reliance upon the file will not be achieved whilst ledger and computer systems are maintained in parallel. Records, forms and information management systems require an overhaul with instructions about how to create, manage, control and archive files.

4.5.1 RECOMMENDATION 5

For delivery on a regional basis it is recommended that standardisation of process, file and information management systems be developed and harmonised locally for potential implementation.

The following implementation steps could be taken:

- Training in file management, civil procedure, criminal procedure and other legal procedures (this can be done by ToT certified personnel in country) be conducted
- Develop templates for file covers and generic forms
- Tips and strategies for file management and decreasing lost files be developed and implemented
- Model file destruction schedules be developed, harmonised locally and implemented
- Development of other practice guidelines and checklists for local harmonisation and implementation.
- Refer to and possibly access existing regional materials e.g.: the Solomon Islands High Court Standardisation Project.
- Refer to and possibly access existing regional materials e.g.: the Solomon Islands High Court Standardisation Project.

⁶ In one case study, case related and event information is recorded six times



4.6 HUMAN RIGHTS, GENDER AND SUSTAINABILITY

4.6.1 HUMAN RIGHTS

Finding: *Timely Trial without Delay:* In each case study there was evidence that poor administration hampered the processes that safeguard the fundamental rights associated ensuring a trial without delay and requirements for proper process. Many issues found were serious.

Finding: *Children's Court:* System-wide laws, policies and procedures are not exercised or in place in some jurisdictions to support the court's obligations in relation to the processing of Youth or Children's Court Cases. In some cases children are not differentiated when in custody and they are not differentiated from adults in court proceedings and afforded legal representation.

Finding: *Court of Record:* The absence of sound recording of court proceedings which necessitates judges to make tedious and distracting hand written notes is a profound weakness that directly affects the quality and reliability of justice and undermines the courts' obligation to be a proper court of record.

Cause: The source of these deficits is largely dealt with in preceding findings that are attributable to inadequate supervision, checking procedures, lack of training of staff and inadequate funding. There is little cross-sectorial co-operation to co-ordinate cases and resources with few checks and balances between the prosecution office and court, and little use of routine case audits and call-over systems that detect anomalies in the system.

4.6.2 SUSTAINABILITY

Finding: *Cultivation of Local Talent:* Each court is supported by expatriate judges and there are few female judges. Numbers of court administration personnel in middle ranks suffer from a steady turnover and courts appear not able to attract or retain high calibre talent. New cadres do not have experienced colleagues to refer to, and morale and the enjoyment of work suffers as a result.

There is widespread support and desire for an increase in the number of Pacific Island nationals to progress to the bench, particularly the higher court benches. One court is accessing a list managed by the Pacific Forum to access suitably experienced Pacific Region judges for its Appellate Court Bench.

Cause: The causes are historical, entrenched and determined by the local capacities. Current succession planning and human resource development systems are well meaning but ad-hoc. The terms and conditions of service are generally inadequate and do not attract sufficient numbers of high calibre administrative (or judicial) talent.

4.6.3 RECOMMENDATION 6

For implementation on a regional basis it is recommended that:

- a) plans for the professional development and succession of local judges and women to the bench be developed and that the concept of a regional panel of Appellate Court judges be further explored; and
- b) that court personnel be provided awareness education in relation to their role as guardians of judicial independence, human rights and the fair and timely administration of justice.



The following implementation steps could be taken:

- Explore the concept of a regional panels of judges for Appellate Courts including Co-ordinating with the Regional Judicial Forum
- Develop model succession plans for the development and retention of local talent to the judiciary and bench, mindful of gender balance, and guide implementation
- Access PIC institutions e.g.: USP for generic courses and/or develop and conduct courses for court staff in introductory legal concepts, the role, purpose and goals of courts; and
- Identify potential trainers at clerk/supervisor level for ToT to develop and deliver courses on civil procedure, criminal procedure and other jurisdiction specific areas.

5.0 CONCLUSION

In presenting this paper, it is acknowledged that it is a major challenge to execute change at a regional level with modest means, particularly in the area of court administration, that requires a “hands-on” approach with the files and a personalised approach with people.

It is considerably more difficult considering the regional diversity of countries that are at significantly different stages of development and that have differing access to material and human resources, stability of government and institutional support.

The challenge for a regional approach is to set and manage expectations and strike a balance between those issues that can be dealt with regionally to finality and those which might, in addition, require intimate in-country assistance to make the change happen.

At the individual PIC level local matrixes are complex, which potentially disadvantages “a one size fits all” model. This is counteracted with the advantages of a regional approach where collective voices can be a powerful force to help realise changes that might not otherwise be domestically possible. Therefore, there are pros and cons to both methods.

This diagnostic concludes that the three case studies demonstrate that there are similar issues and challenges facing each JADP PIC judiciary. This is supported by observations and workshops at the regional National Co-ordinator’s and Chief Justices Conferences where representatives of other PIC judiciaries expressed the same or similar concerns.

The recommendation is that discrete projects be attempted over time, headquartered in the region to start to reduce dependencies, and to provide for a more direct and streamlined delivery of court administration assistance and support in the areas listed in this report with a principle focus on court specific management and leadership and case management.

To realise actual change and sustainability, the outlook for this approach should be long term and retain a strong element of international technical assistance.



ANNEX ONE: OUTLINE OF TRAINING OF POTENTIAL TOPICS FOR INCLUSION IN A COURT LEADERSHIP TRAINING CURRICULUM

General Management

- Leadership and vision
- Human resources/personnel management
- Financial management
- Change & management by objectives
- Teambuilding and motivation of employees
- Supervision/delegation/coaching
- Self-evaluation and improvement
- Innovation and technology

Court Management

- Purpose, goals and standards of courts
- Administration according to the rules of the court
- Roles of the Chief Justice, Secretary of Justice, Lord Chancellor, Chief Registrar & others
- Budget preparation and management
- Performance and reporting

Case Management

- Dimensions of case management
- Typology and differentiating the caseload
- File and case-flow management
- Prioritisation
- Standards for duration of proceedings
- Time frames
- Dealing with backlogs