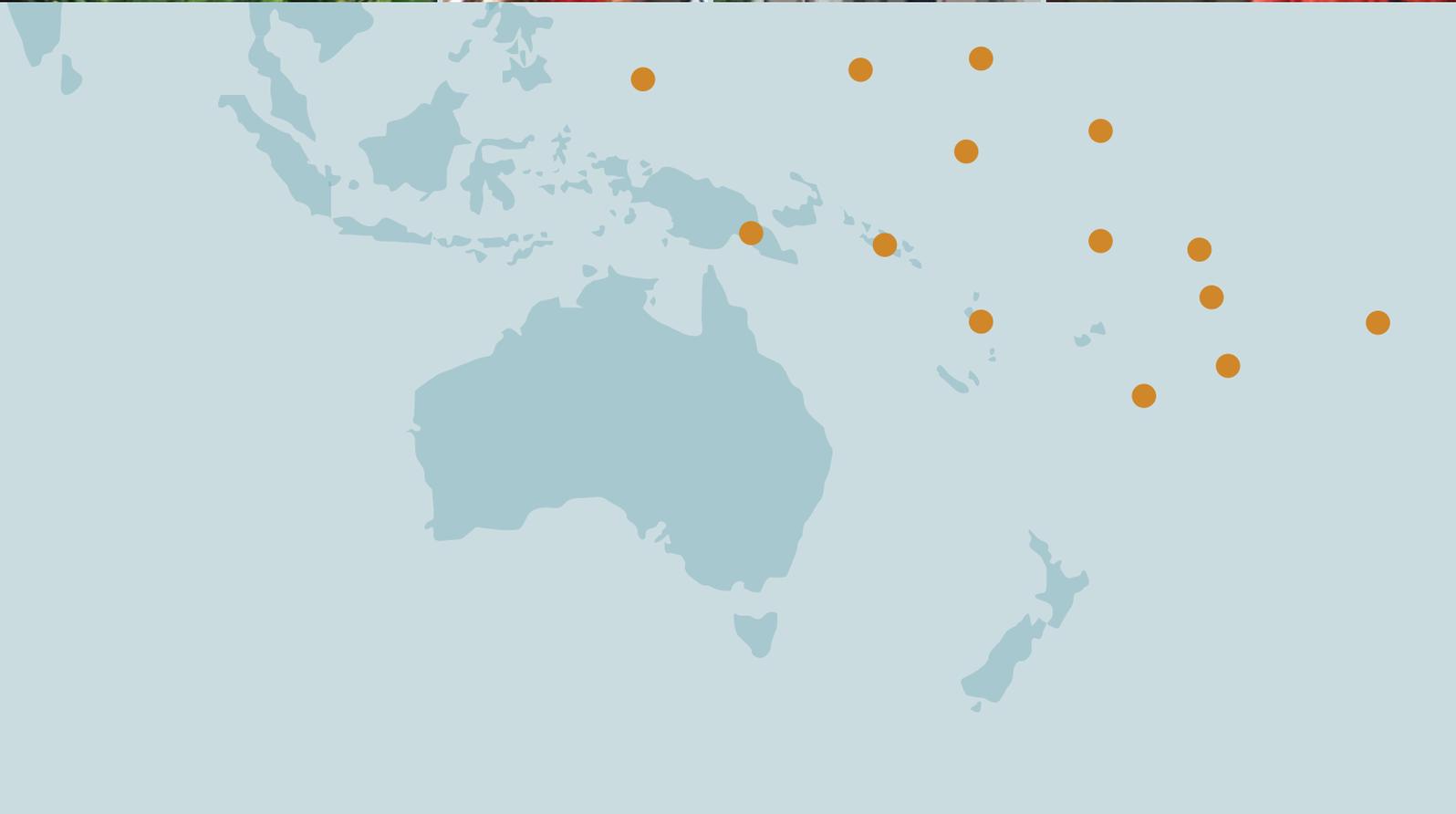


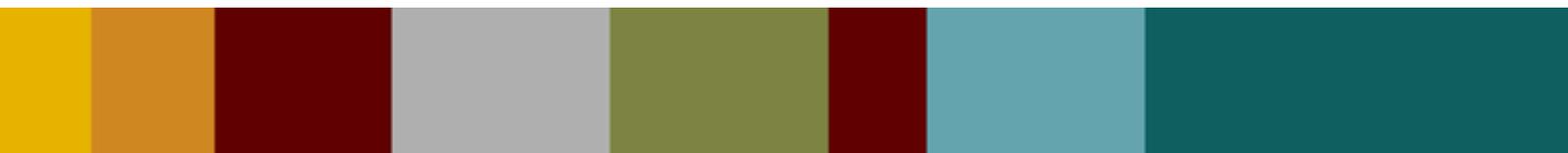


Pacific Judicial Development Programme:

2012 Court Trend Report

JULY 2013





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2013

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Pacific Judicial Development Programme:

2012 Court Trend Report

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The Pacific Judicial Development Programme is a Regional Programme of Assistance Supported by New Zealand Ministry of Foreign Affairs and Trade

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Abbreviations

ADR	Alternative Dispute Resolution
AusAID	Australian Agency for International Development
BNPL	Basic Needs Poverty Line
DCECMS	District Court Electronic Case Management System
FCA	Federal Court of Australia
FSM	Federated States of Micronesia
GDI	Gender Development Index
GDP	Gross Domestic Product
GNI	Gross National Income
HDI	Human Development Index
HIES	Household Income and Expenditure Survey
IFCE	International Framework for Court Excellence
JME	Judicial Monitoring and Evaluation
LJSS	Law and Justice Sector Secretariat
MFAT	Ministry of Foreign Affairs and Trade
MLSC	Micronesian Legal Service Commission
NGO	Non Government Organisation
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
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 and legislation that continue to promote a safe and fair society within the Cook Islands and to provide a more reliable, accessible and sustainable land administration system and a fair, well organised judicial system working in an electronic environment.¹

Federated States of Micronesia²

Mission Statement: The mission of the Supreme Court of the Federated States of Micronesia 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 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.

Vision Statement: The Courts of the Marshall Islands will be independent, impartial, well-managed, and respected, providing justice to all who come before them.

¹ Government of the Cook Islands Ministry of Justice, 2011-2012 Court Report.

² FSM National Judiciary Calendar Year 2012 Annual Report

³ Address delivered at the Formal opening of the Court Commencing the 2013 Legal Year of the High Court of Kiribati on 1 February 2013 by the Honourable Chief Justice Sir (Gilbert) John Baptist Muria Kt.



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.

Republic of 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: The Mission of the Papua New Guinea National Judicial System is to administer law and justice to all people in Papua New Guinea in a just and fair manner, effectively and efficiently in accordance with world best practice.

Vision Statement: An efficient and effective judicial system delivering justice in a timely manner.

Samoa

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

Vision Statement: Justice for a safe Samoa.

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 PJDP 2012 Court Trend Report presents a second year of court performance data against 15 indicators and compares results against those presented in the PJDP 2011 Court Baseline Report.⁴

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.

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**.

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.^o

⁴ http://www.fed...court.gov.au/_data/assets/pdf_file/0003/18696/2011-Court-Baseline-Report.pdf
<http://www.paclii.org/pjdp/>

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 Courts ability to report on these 15 indicators is summarised in Tables A and B:

Table A Percentage of the 14 PJDP countries that currently report on the indicator

Indicator	Percentage of the 14 PJDP countries that currently report on the indicator in the 2011 Baseline Report	Percentage of the 14 PJDP countries that currently report on the indicator in the 2012 Trend Report
1 Clearance rate	64% (9 of 14)	64% (9 of 14)
2 Average duration of a case from filing to finalisation	14% (2 of 14)	21% (3 of 14) ▲
3 The percentage of appeals	57% (8 of 14)	50% (7 of 14) ▼
4 Overturn rate on appeal	21% (3 of 14)	43% (6 of 14) ▲
5 Percentage of cases that are granted a court fee waiver	21% (3 of 14)	43% (6 of 14) ▲
6 Percentage of cases disposed through a circuit court	50% (7 of 14)	57% (8 of 14) ▲
7 Percentage of cases where a party receives legal aid	14% (2 of 14)	43% (6 of 14) ▲
8 Documented process for receiving and processing a complaint that is publicly available	21% (3 of 14)	21% (3 of 14)
9 Percentage of complaints received concerning a judicial officer	21% (3 of 14)	36% (5 of 14) ▲
10 Percentage of complaints received concerning a court staff member	14% (2 of 14)	29% (4 of 14) ▲
11 Average number of cases per judicial officer	57% (8 of 14)	71% (10 of 14) ▲
12 Average number of cases per member of court staff	43% (6 of 14)	71% (10 of 14) ▲
13 Court produces or contributes to an Annual Report that is publicly available in the following year	7% (1 of 14)	64% (9 of 14) ▲
14 Information on court services is publicly available	29% (4 of 14)	36% (5 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 and how they 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	
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	Overtun 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							



Publicly Available



Not Publicly Available



Judgments online but not available for previous year/ have court fee waiver provisions and/or circuit courts held but no data collected on number of cases/ 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
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							



Publicly Available



Not Publicly Available



Judgments online but not available for previous year/ have court fee waiver provisions and/or circuit courts held but no data collected on number of cases/ 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 reports⁵. 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 in the baseline report 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 27 key findings and 24 recommendations from this 2012 Trend Report are set out in Chapter 8 of this report.

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. Only one PJDP court, the Republic of the Marshall Islands, presents its court performance standards and data on whether these have been achieved in its Annual Report.

5 The judiciary of the Republic of the Marshall Islands is an exception as it presents data on juvenile cases in its annual report available on its website: www.rmicourts.org

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.

Table C 2011 Baseline Report and 2012 Trend Report Summary of Court Performance Reporting

Indicator of Court Performance	2011 Baseline Report	2012 Trend Report
Able to report on the 15 court performance indicators.	9 of 14 PJDP countries (64%) report on 5 or less of the 15 court performance indicators. 2 of 14 (14%) PJDP countries are able to report on 10 or more of the 15 court performance indicators. There is only 1 court performance indicator that 10 or more of the PJDP countries can report on.	6 of 14 PJDP countries (43%) report on 5 or less of the 15 court performance indicators. 6 of 14 (43%) PJDP countries are able to report on 10 or more of the 15 court performance indicators. There are 3 court performance indicators that 10 or more of the PJDP countries can report on.
PJDP Courts produce or contribute to an Annual Report that is publicly available in the following year.	1 of 14 PJDP countries produces or contributes to an annual report that is publicly available in the following year.	9 of 14 (64%) PJDP countries produce or contribute to an annual report that is publicly available in the following year.
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.	1 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.	2 of the 14 PJDP countries undertook court user surveys during 2011 (Republic of Palau and PNG).	1 of the 14 PJDP countries undertook a court user survey during 2012 (Republic of the Marshall Islands).

Green indicates a trend improvement in court performance reporting in Year 2 over the baseline year.

Regional Justice Performance Framework

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.

Trend Changes: July 2012–June 2013

- I. **Improved Transparency:** Nine of the 14 (64%) PJDP countries were able to report on an increased number of the 15 Cook Island court performance indicators in their annual report as presented in Table B above. Three of the 14 (21%) PJDP countries reported on the same number of court performance indicators. Two of the 14 (14%) PJDP countries reported on a lower number of court performance indicators.
- II. **Improved Consistency:** In 11 of the 15 (79%) Cook Island court performance indicators, there is a trend improvement in the number of PJDP countries able to report on the indicator over the last 2 years of the PJDP programme.
- III. **Increased Reporting:** Three of the 14 (21%) PJDP countries produced an annual report for the first time: Cook Islands, Federated States of Micronesia and Tokelau. The public can access all three of these annual reports through national websites as well as on the regional Pacific Legal Information Institute (PacLII) website. The experience of the Cook Islands and Tokelau in compiling their first court annual report is presented in Chapter 5 of this Trend Report.
- IV. **Improved Public Access to Court Annual Reports:** In the 2011 Baseline Report, only one of the 14 PJDP countries produced or contributed to an annual report that was publicly available in the following year. One year on, nine of the 14 (64%) PJDP countries have produced or contributed to an annual report that is now publicly available in the following year. This represents a significant improvement in the accountability and transparency of judiciaries in the Pacific. PacLII continues to play an important role in facilitating accountability and transparency in justice systems across the Pacific through its publication of judgments and annual reports from the 14 PJDP jurisdictions.

- V. Smallest PJDP Jurisdictions Promote Increased Transparency:** In the 2011 Baseline Report, only two of the 14 (14%) PJDP countries were able to report on 10 or more of the 15 Cook Islands court performance indicators. One year on, six of the 14 (43%) PJDP countries are able to report on 10 or more of the court performance indicators. The Cook Islands, Niue, Tokelau and Tonga are the four PJDP jurisdictions that in the last year joined the Republic of Palau and the Republic of the Marshall Islands in being able to report on 10 or more of the Cook Island court performance indicators. It is interesting to note that these initiatives on court transparency and accountability are being led by three of the smallest jurisdictions in the Pacific.
- VI. 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. In 2012, the Republic of the Marshall Islands judiciary undertook a client satisfaction survey over a two-week period in which 105 court clients answered 15 questions related to access to the courts and their perceptions of the fairness of the court system. Details of this access and fairness survey undertaken by the Republic of the Marshall Islands judiciary can be seen in Chapter 5 of this report. Both Republic of Palau and the Republic of the Marshall Islands have undertaken client satisfaction surveys over the last two years and have shared their experience of undertaking these surveys with other PJDP judiciaries.

PJDP would like to thank the Chief Justices and National Coordinators for their support in contributing to this 2012 PJDP Trend Report. This report has been prepared with the assistance of the many Pacific and other parties referred to on page 2.

1 Goal of the Pacific Judicial Development Program

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 exists 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 is 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**.

The Judicial Monitoring and Evaluation (JME) activity within PJDP 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 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 2 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 examples of national courts that have introduced ways of either providing more information to court stakeholders on the work of the courts or processes to better understand the views of court users on the level of service provided by courts. 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 presents Key Findings and Recommendations. Chapter 9 sets out the Regional Justice Performance Framework and presents data against this Framework for the 2011 Baseline year and the first year of trend data from the 14 PJDP partner courts.

2 Methodology for the Court Baseline Report and 2012 Court Trend Report

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 evaluate⁶ 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.

⁶ "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 reports⁷. 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 in the baseline report 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.

⁷ The judiciary of the Republic of the Marshall Islands is an exception as it presents data on juvenile cases in its annual report available on its website: www.rmicourts.org

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)	✓

The timeline for the development of the 2011 Baseline and 2012 Trend Report for the PJDP partner countries is set out below.

Table 2.3 Timeline for 2011 Baseline Report and 2012 Trend Report

Date	Action
June/July 2011	15 Cook Island Indicators developed in consultation with Chief Justices and National Coordinators.
August 2011–January 2012	JME 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 Apia.
August 2012	Baseline Report published and distributed to partner PJDP judiciaries and other justice stakeholders across the Pacific.
August 2012–July 2013	JME 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 Auckland.

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, pp13 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 As will be seen in Chapter 5 of this report, the courts that have undertaken client surveys have received valuable suggestions from clients on ways that their services might be improved.

Chapter 5 of this report explores in more detail the experience of Courts in the Republic of the Marshall Islands in undertaking a court stakeholder survey, referred to in that jurisdiction as an access and fairness survey.

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

One PJDP court presents their court performance standards and data on whether these have been achieved in their Annual Report.⁸

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 and 2012 PJDP Court Trend Report. 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.

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.

3

A Snapshot of Selected Development Indicators

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 PNG. The second largest population is that of the Solomon Islands at 550,000 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 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.
- 3 The cost of a civil case as a percentage of the weekly basic needs poverty line varies from 0% in Tokelau where there are no court fees to 577% 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 Tokelau where there are no court fees to 577% 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 ⁹	GDP per capita (\$US) 2011 ¹⁰	GNI per capita PPP (\$US) 2011 ¹¹	GNI per capita (\$US) 2009 ¹²	HDI Rank 2011	Population living under the International Poverty Line (%) ¹³	Internet Users (Per 100 people) ¹⁴
Cook Islands	17,791 ¹⁵	20,452.00	15,813.30	9,748.90	–	–	36
Federated States of Micronesia	107,000 ¹⁶	2,803.00	2,900.00	2,598.00	116's	31.2% (2000)	20
Kiribati	105,000	1,593.00	2,110.00	1,617.40	122	38% (1996)	9
Marshall Islands	55,000	2,891.00	3,910.00	3,385.70	–	20% (1999)	0
Nauru	10,200	6,928.00	–	5,322.10	–	–	6
Niue	1,625 ¹⁷	10,358.00	–	–	–	–	0
Palau	20,800	8,730.00	7,250.00	10,228.60	49	–	0
Papua New Guinea	7,034,000	1,900.00	1,480.00	1,047.30	153	37% (2002)	1
Samoa	187,820 ¹⁸	3,472.00	3,190.00	2,838.30	99	5.5% (2002)	7
Solomon Islands	552,000	1,578.00	1,110.00	1,313.10	142	–	5
Tokelau	1,411 ¹⁹	\$1000 ²⁰	–	–	–	–	–
Tonga	103,036 ²¹	4,221.00	3,580.00	3,336.50	90	24% (2004)	12
Tuvalu	11,300	3,202.00	5,010.00	2,749.00	–	17.2% (1994)	25
Vanuatu	258,000	3,105.00	2,870.00	2,367.70	125	26% (1998)	8

⁹ Unless stated, the data source for PIC populations is the 2012 *World Population Data Sheet* of the Population Reference Bureau. This is available at www.prb.org. Otherwise, where used, specific national censuses have been cited.

¹⁰ Data taken from Department of Foreign Affairs and Trade. 2012. *Country Profiles*. The Australian Government. Available at: <http://www.dfat.gov.au/geo/index.html>

¹¹ Data taken from The World Bank Group. 2012. GNI per capita, Atlas Method (current \$US). The World Bank. Available at: <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

¹² Data taken from UN Data. 2012. *Country Profiles*. World Statistics Pocketbook. UN Statistics Division. Available at: <http://data.un.org/Default.aspx>

¹³ Data taken from Asian Development Bank. 2011. *Statistical Database System Online*. Available at: <https://sdfs.adb.org/sdfs/index.jsp>

¹⁴ Data taken from UNICEF. 2012. *East Asia and the Pacific Country Profiles*. Available at: <http://www.unicef.org/infobycountry/eastasia.html>

¹⁵ Statistics Office. 2012. *Cook Islands census of population and dwellings 2011: Preliminary Report*. Avarua: Government of Cook Islands.

¹⁶ Office of Statistics, Budget and Economic Management. 2008. *Statistical yearbook: Federated States of Micronesia*. Palikir: Government of the Federated States of Micronesia.

¹⁷ Niue Economics, Planning, Development and Statistics Unit. 2008. *Niue population profile: Based on 2006 census of population and housing*. New Caledonia: Secretariat of the Pacific Community.

¹⁸ Samoa Bureau of Statistics. 2012. *2011 population and housing census analytical report*. Apia: Government of Samoa.

¹⁹ Statistics New Zealand. 2011. *Final count for the 2011 Tokelau census of population and dwellings*. Wellington: Statistics New Zealand.

²⁰ No other data available for after 1993. This was taken from the World Bank database.

²¹ Tonga Department of Statistics. 2011. *Tonga national population and housing census 2011: Preliminary result*. 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.

Table 3.2 Basic Needs Poverty Line²²

Country	Basic Needs Poverty Line (BNPL) ²³		Percentage of Population Under the BNPL ²⁴		Court Costs	
	Weekly Adult per capita BNPL	Weekly BNPL per Household in the Lowest 3 Deciles	Individual (National Average) ²⁵	Household	Civil Case Cost	Civil Case Cost as percentage of Weekly Adult BNPL
Cook Islands ²⁸	\$80.69	\$366.43	28 %			
Federated States of Micronesia ²⁹	US\$23.12	US\$193.56	31%	22.4%		
Kiribati ³⁰	AU\$16.09	AU\$112.80	22%	17%		
Marshall Islands					\$25.00 ³¹	108%
Nauru ³²			25%		\$30.00 ²⁶	
Niue		NZ\$55.00				
Palau ³³	\$58.05	\$244.67	25%	18.4%	\$50.00 ³⁴	86%
Papua New Guinea ³⁵			28%		K50.00 ³⁶	
Samoa ³⁷	SAT53.59	SAT493.02	27%	20.1%	SAT36.60 ³⁸	68%
Solomon Islands ³⁹	SBD47.37	SBD265.77	23%	18.8%		
Tokelau					No fee/ \$0	0%
Tonga ⁴⁰	T\$49.73	T\$337.52	23%		\$82.00 ²⁷	165%
Tuvalu ⁴¹			26%		AU\$6.00 ⁴²	
Vanuatu ⁴³	US\$15.20		13%	21.6%	VT8,000 ⁴⁴	577%

22 Data taken from Table 3 of the 2012 *Pacific Regional MDGs Tracking Report* of the Pacific Islands Forum Secretariat. Suva, Fiji: Pacific Islands Forum.

23 Nauru Schedule of Court Fees as at 18 February 2005. This is specifically the figure for filing an originating summons.

24 Tonga Schedule of Court Fees 2010 Revised Edition. This is the figure for summons and service with the Magistrates' Court. Another figure of note is the \$103 required to file a petition of divorce.

25 Data compiled from the UNDP Pacific Centre series Analysis of Household Income and Expenditure Surveys under the Poverty and Social Impact Assessment Initiatives (PISA).

26 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).

27 Percentage of population with weekly expenditure under the BNPL.

28 Wright-Koteka, E. 2009. *National Millennium Development Goals Report: Cook Islands*. Office of the Prime Minister and UNDP Pacific Centre: 16.

29 Abbott, D. and Nimea, F. 2008. *Federated States of Micronesia: Analysis of the 2005 household income and expenditure survey*. UNDP Pacific Centre and Government of the Federated States of Micronesia, Office of S.B.O.C, Division of Statistics: Suva, Fiji.

30 Abbott, D. and H. N. Teewe. 2010. *Kiribati: Analysis of the 2006 household income and expenditure survey*. UNDP Pacific Centre and Kiribati National Statistics Office: Suva, Fiji.

31 Filing fees in the High Court vary - \$25 is the most common filing fee. <http://rmicourts.org/>

32 Pacific Islands Forum Secretariat. 2012. 2012 Pacific regional MDGs tracking report. Suva, Fiji: Pacific Island Forum.

33 Abbott, D. and E. Sadang. 2008. *Palau: Analysis of the 2006 household income and expenditure survey*. UNDP Pacific Centre and Palau Office of Planning and Statistics: Suva, Fiji.

34 Registry. 2010. *Judicial Fee Schedule (as of 10/04/2010)*. Palau Government. <http://www.palau.gov.net/judiciary/JudicialFees.pdf>

35 Pacific Islands Forum Secretariat. 2012. 2012 Pacific regional MDGs tracking report. Suva, Fiji: Pacific Island Forum.

36 Supreme Court Registry. 2011. *Supreme and National Court of Papua New Guinea: Fees*. Government of Papua New Guinea. <http://www.pngjudiciary.gov.pg/www/html/59-fees.asp>

37 Abbott, D. and S. R. Muagututia. 2010. *Samoa: Analysis of the 2008 household income and expenditure survey*. UNDP Pacific Centre and Samoa Bureau of Statistics: Suva, Fiji.

38 Samoa Supreme Court (Fees and Costs) Rules 1971 Schedule 1.

39 Abbott, D. 2008. *Solomon Islands: Analysis of the 2005/06 household income and expenditure survey*. UNDP Pacific Centre and Solomon Islands National Statistics Office: Suva, Fiji.

40 Ministry of Finance and Planning. 2010. *2nd National Millennium Development Goals Report: Tonga*. Government of Tonga: Nuku'alofa.

41 Pacific Islands Forum Secretariat. 2012. 2012 Pacific regional MDGs tracking report. Suva, Fiji: Pacific Island Forum.

42 Tuvalu Magistrates' Courts (Fees in Civil Cases) Rules 2008 (Revised Edition Cap.7.36.1)

43 Pacific Islands Forum Secretariat. 2012. 2012 Pacific regional MDGs tracking report. Suva, Fiji: Pacific Island Forum.

44 Republic of Vanuatu Courts Act (Cap.122): Civil Procedures Rules No. 49 of 2002, Schedule 1. VT8000=USD 88 (2011 exchange rate)

4 Overview of Court Performance Indicators

The information presented in this 2012 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 2012 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 2011–2012	NO	Yes 2011–2012 PacLII and Ministry of Justice website
Federated States of Micronesia	FSM Judiciary Calendar Year 2012 Annual Report of Micronesia	YES www.fsmsupremecourt.org	YES 2012
Kiribati	Address by Chief Justice Sir John Muria at the formal opening of 2013 Court Year (2012 data)	NO	YES PacLII website
Marshall Islands	2011	YES http://rmicourts.org/	YES–2011 PacLII and own court website
Nauru	No new data publicly available	NO	YES–2009-2010 PacLII
Niue	Annual Report 2011–2012	NO	YES –2011-2012 PacLII website
Palau	Court data for 2012	YES http://www.palausupremecourt.net/	NO
PNG Supreme & National Court	No new data publicly available	www.pngjudiciary.gov.pg	NO
PNG Magistrates Court	Court data from 2011 Annual Performance Report by PNG Law & Justice Sector Secretariat	YES http://www.magisterialservices.gov.pg/	NO
Samoa	2011-2012	http://www.mjca.gov.ws/ http://www.samlii.org/	NO



Table 4.1 Data for 2012 Court Trend Report [continued]

	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
Solomon Islands	Address by Chief Justice Sir Albert Rocky Palmer CBE at opening of the Legal Year 2013 (2012 data)	NO	YES PacLII website
Tokelau	2011-2012	NO	YES PacLII website
Tonga	2011	YES http://www.justice.gov.to	YES PacLII website
Tuvalu	No Annual Report	NO	NO
Vanuatu	2011	NO	YES–2011 PacLII website

Indicator 1 Case Management – Clearance Rate

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

Key finding

9 of 14 PJDP countries (64%) 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 no change in this indicator over the two years 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

Court staff members that are responsible for tracking the number of cases filed and the number of cases finalised using Excel documents would benefit from training on the use of filters and other techniques so as to more easily extract case management data from these documents.

There are a number of reasons why 36% of PJDP courts are unable to present data in a form that will permit a clearance rate to be calculated: (i) some courts do not present annual reports each year, (ii) other courts present annual reports but they do not include data on the number of cases filed and the number of cases finalised in a particular year and (iii) some courts collect data on the number of cases filed in a given year (e.g. 2010) and the number of cases from that given year (e.g. 2010) that are finalised. However, this approach does not provide data on the total number of cases that are finalised for the year, including those cases from previous years, and therefore it is not possible to calculate an overall clearance rate.

As a result of this PJDP activity both FSM and Tokelau courts have changed the way that they collect data and since the end of 2011 are both now able to calculate clearance rates for their courts.

A clearance rate of 100% or higher indicates that a Court is able to keep up with the cases being filed at Court. The High Court of the Republic of the Marshall Islands has a goal to maintain an annual clearance rate for civil and criminal cases of 100%, or better, each year. The High Court has achieved this over the past five years in relation to civil and juvenile cases⁴⁵. Tokelau also has a clearance rate of 100%.

⁴⁵ 2011 Report, the Judiciary of the Republic of the Marshall Islands, P9.

Table 4.1.1 Clearance rates - Year 2 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Supreme Court of FSM: Criminal Cases 154% Civil Cases 111% Appeal cases 82% (2012)	Data unavailable	High Court 149% across all case types filed in the High Court (2011)	Data unavailable	High Court 63% for Land cases 69% criminal cases 100% civil cases (2011-2012)	Supreme Court 116% Land Court 234% Court of Common Pleas 96% (2012)
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Magistrates Court 49% (2011)	Supreme Court 141%	Data unavailable	100% (2011-2012)	Supreme Court 85% Magistrates Court 116% (2011)	Data unavailable	Supreme Court 68% Magistrates Court 67%

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

Three PJDP countries (21%) (Republic of the Marshall Islands, Republic of Palau and Tokelau) 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 two years 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 was the only PJDP jurisdiction to refer to a time standard for the hearing of different types of cases in its 2011 Annual Report. The High Court's goal is to maintain a clearance rate for juvenile cases of 100% over the most recent two years, and/or to dispose of juvenile cases within six months of filing.

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. [Note: A time standard may stipulate that a certain percentage of cases are to be finalised within a certain time period.]

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, e.g. 100% of criminal matters finalised within three months.

The courts in both the Republic of the Marshall Islands and the Republic of Palau have used Excel spreadsheets and Access databases to calculate the average duration of a case.

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 three 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).

Table 4.2.1 Average duration of a case - Year 2 Trend Data

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 Civil cases: 2864 days* Criminal cases: 332 days	Data unavailable	Data unavailable	Supreme Court 314 days Court of Common Pleas Civil: 83 days Juvenile: 73 days Small claims: 73 (2012)
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	Data unavailable	Data unavailable	Atafu: 50 days Fakaofu: 16 days Nukunonu: 66 days Average across the three islands: 43 days	Data unavailable	Data unavailable	Data unavailable

* In 2011, one third of all civil cases finalised in the RMI High Court dated from 1982-2000 due to a programme to clear very old cases.

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 by the number of cases finalised in the level of court jurisdiction from which the appeal is made.

Key finding

7 of the 14 PJDP countries (50%) 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, 8 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 **downward trend** in this indicator over the two years 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 appealed 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 2 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
0.2% of High Court decisions appealed.	Data unavailable	Data unavailable	0.6% of High Court decisions appealed.	Data unavailable	4% of High Court decisions appealed.	7% of Supreme Court decisions appealed.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	Data unavailable	Data unavailable	0% of Law Commission decisions appealed.	Supreme Court 4% Magistrates Court 0.2%	Data unavailable	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

6 of 14 PJDP countries (43%) (Cook Islands, Republic of the Marshall Islands, Niue, the Republic of Palau, Tokelau and Tonga) 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, 3 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 two years 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 2 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
66% of the matters referred to the Court of Appeal were overturned in whole or in part. 70% of the matters decided by a Justice of the Peace that were referred to the High Court were overturned in whole or in part.	Data unavailable	Data unavailable	High Court 3 cases subject to an appeal in 2011. Neither (0%) of the original decisions were overturned on appeal.	Data unavailable	High Court Two appeal cases were completed. Neither (0%) of the original decisions were overturned on appeal.	In 11 of the 49 appeal cases (22%) heard by the Supreme Court in 2011, the original decision was reversed in part.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	Data unavailable	Data unavailable	0%	5 of the 23 appeals (22%) heard by the Court of Appeal were allowed. 14 of the 34 appeals (41%) to the Supreme Court were allowed.	Data unavailable	Data unavailable

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

6 of the 14 PJDP countries (43%) 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, 3 of 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 two years 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.

The cost of a civil case represents between 68% (Samoa) to 577% (Vanuatu) of the weekly income of a person living on the Basic Needs Poverty Line (please refer to Table 3.2 in Chapter 3). 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 Tokelau is accessible to all citizens regardless of their income.

In the six countries that could present data on the waiver of court fees, Tokelau 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 2011/2012. In Tonga, court fees were waived in two cases on the direction of the Chief Justice. There is no statutory provision for the waiver of a court fee in Tonga, it is left to the litigant to plead indigence.

In the Republic of Palau, the process of collecting data for the 2011 PJDP Baseline Report on whether the courts granted fee waivers revealed that a court fee waiver process existed at the appellate level in the Supreme Court but not at the trial level of the Supreme Court nor the Court of Common Pleas. In order to correct this anomaly, a Supreme Court Order was signed in December 2011 amending the Civil Procedure Rules to include a fee waiver. A Party can now file an action with an affidavit showing his/her inability to pay fees (a proforma 'Declaration In Support Of Request For Exemption From Payment of Fees' can be found on the Palau judiciary website). In 2012, court fees were waived in 10 civil cases filed in the Trial Division of the Supreme Court.

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.

Table 4.5.1 Percentage of cases that are granted a court fee waiver - Year 2 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.	Data unavailable	Data unavailable	0% In 2011, no applicant in a civil matter requested a waiver of the court	Data unavailable	0% In 2011, no applicant in a civil matter requested a waiver of the court fee.	4% of civil cases. 10 civil cases in the Supreme Court Trial Division.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	A court fee waiver process is set out in the Supreme Court (Fees and Costs) Rules 1971 but there is no data the number of court fee waivers granted.	Data unavailable	100%	Court fees waived in 2 cases on the direction of the Chief Justice.	Data unavailable	Data unavailable

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 filed.

Key finding

8 of 14 PJDP courts (57%) are able to provide data on the percentage of cases heard through a circuit court. In 5 of the 8 countries that are able to provide data, no circuit courts are held. In the 2011 Baseline Report, 7 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 two years 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.

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 2011, the Republic of the Marshall Islands' High Court heard 5% of its civil cases and 13% of its criminal cases through a circuit court.

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 2011-2012, 31% of all cases completed in the Lands and Titles Court, 23% of all cases completed in the Faamasino Fesoasoani Court and 13% of all cases completed in the District Court were heard by judges travelling on circuit in Savaii.

In Tonga, the Supreme Court conducted two circuit courts to Vava'u during 2011. The Supreme Court heard 2% of divorce cases and 5% of criminal cases at circuit court sittings in Vava'u during 2011. There is currently no presiding Magistrate in Ha'apai and 'Eua so the Tongatapu

Table 4.6.1 Percentage of cases disposed through a circuit court - Year 2 Trend

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	In 2011, 12% of all civil cases were heard on a circuit court.	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
Circuit courts held but data on the percentage of cases heard in the circuit Court unavailable	31% of all cases completed in the Lands and Titles Court, 23% of all cases completed in the Faamasino Fesoasoani Court and 13% of all cases completed in the District Court were heard by judges on a circuit court at Tuasivi.	0% (No Circuit courts)	0% Circuit courts not required as law commissioners hear cases on each of the three islands.	2% of divorce cases and 5% of criminal cases were heard by the Supreme Court at circuit court sittings in Vava'u during 2011. 4% of all Magistrates Court cases are heard on circuit courts to Ha'apai and 'Eua.	Data unavailable	Circuit courts held but data on the percentage of cases heard in the circuit Court unavailable

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

Magistrates' Court undertakes a circuit court to Ha'apai and 'Eua every 2 months. Four per cent (4%) of all Magistrates Court cases are heard on circuit courts to Ha'apai and 'Eua.

In Vanuatu, circuit courts are conducted but data are not collected on the number of cases heard through a circuit 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.

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

Six PJDP countries (43%) (the Cook Islands, Republic of the Marshall Islands, Niue, Republic of Palau, Tokelau and Tonga) collect data on the percentage of cases in which a party receives legal aid. In the 2011 Baseline Report, 2 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 two years 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 public defender's office 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 the Republic of 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.

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

In Papua New Guinea, the Law and Justice Sector Secretariat (LJSS) annual performance report for 2011 states that the Office of the Public Solicitor in PNG received applications for legal aid in 1,874 civil cases and 607 criminal cases in 2011⁴⁶. As the data are not presented for each level of court it is not possible to state the percentage of cases where a party receives legal aid for PNG. As approximately 70,000 cases are filed in the National and Supreme Court as well as the Magistrates Courts across PNG, parties would receive legal aid in less than 2% of cases.

Table 4.7.1 Percentage of cases where a party receives legal aid - Year 2 Trend

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
<p>High Court In 10 of 857 criminal matters (0.01%) the defendant received legal aid.</p> <p>There is no legal aid in civil cases.</p>	Data unavailable	Data unavailable	<p>High Court In 57% of civil matters filed in 2011, one or more parties received legal aid.</p> <p>In 59% of criminal matters filed in 2011, the defendant received legal aid.</p>	Data unavailable	0% There is no provision for legal aid.	<p>Supreme Court In 104 of the 110 criminal cases (95%) parties received legal aid through the Public Defenders Office.</p>
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% There is no provision for legal aid.	Data unavailable	Data unavailable

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	<p>High Court 59% (2010)</p> <p>In 84% of criminal cases and 100% of juvenile criminal cases the defendant received legal aid. (2010)</p>	<p>Supreme Court Data unavailable</p> <p>Magistrates Court Data unavailable</p>	Data unavailable	Data unavailable
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
<p>Supreme Court Data unavailable</p> <p>Magistrates Court Data unavailable</p>	<p>Supreme Court Data unavailable</p> <p>Magistrates Court Data unavailable</p>	<p>Appeal Court Data unavailable</p> <p>Supreme Court Data unavailable</p> <p>Magistrates Court Data unavailable</p>	0% of parties receive legal aid. Parties represent themselves.	<p>Supreme Court Data unavailable</p> <p>Magistrates Court Data unavailable</p>	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 a documented process for receiving and processing a complaint should be accessible to the public.

Key finding

Three PJDP countries (21%) (Kiribati, Republic of the Marshall Islands and the Republic of Palau) have a documented process for receiving and processing a complaint. For the Republic of the Marshall Islands and the Republic of Palau the Judicial Code of Conduct is available on the courts' website. In the 2011 Baseline Report, 3 of 14 PJDP courts (21%) had a documented process of receiving and processing a complaint. There is **no change** for this indicator over the two years 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.

Table 4.8.1 Documented process for receiving and processing a complaint that is publicly available - Year 2 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
No public complaints process.	Data unavailable	Complaints handling process included in the new judicial code of conduct.	Complaints handling process included in the accountability section in the RMI Code of Judicial Conduct.	No public complaints process.	There is no system which deals with complaints from members of the public against the HC of Niue.	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
Data unavailable	Data unavailable	Data unavailable	At present there is no established complaint handling mechanism for the Tokelau Judiciary and Police.	Data unavailable	Data unavailable	Data unavailable

In Kiribati, a complaint procedure was incorporated in the new judicial code of conduct supported through Phase 2 of the PJDP.

In the Cook Islands, the first Court Annual Report published in May 2013 states that, “Any complaints against juridical officers (Judges or JPs) are made to the Registrar in writing and forwarded to the Chief Justice for determination.”⁴⁷

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

Five PJDP countries (36%) (Cook Islands, and the Republic of the Marshall Islands, Niue, Republic of Palau and Tonga) 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 two years 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 2 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
3 complaints concerning delay in the provision of a judgment by a judicial officer. 2 complaints about JPs 5/2933= 0.002%	Data unavailable	Data unavailable	0% complaints against judicial officers.	Data unavailable	0% No formal written complaints filed or received by the High Court Registry against a judicial officer.	0% complaints against judicial officers.
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	Data unavailable	Data unavailable	No data is collected as there is no process for lodging a complaint.	0% complaints against judicial officers.	Data unavailable	Data unavailable

Complaints in relation to judicial conduct most often relate to either (i) delay in the delivery of a reserved judgment (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.

In the Republic of the Marshall Islands, Niue, Republic of Palau and Tonga no complaints were received concerning a judicial officer. In the Cook Islands, the number of complaints received relating to a judicial officer represented less than 1% of cases filed.

The Republic of the Marshall Islands presents information in its Annual Report on complaints received over the last five years:

With respect to judicial conduct, the Judiciary has adopted the Marshall Islands Code of Judicial Conduct 2008 (revised February 16, 2012). The Code is based upon the Bangalore Principles and the American Bar Association Code of Judicial Conduct. A copy of the Judiciary's code can be found on its website, www.rmicourts.org/ under the heading "The Marshall Islands and Its Judiciary." Provisions for lodging and processing complaints against judges starts on page 12 of the code. In 2011, no complaints were lodged against judges.

In the past five years, only three complaints have been lodged against judges. Those three complaints, lodged by related self-represented parties against a single judge, were dismissed as without merit. The proper remedy for parties who are dissatisfied with a judge's decision is to appeal the judge's decision. Dissatisfaction with a judge's decision is not grounds for filing a complaint against the judge. Over the past five years, the percent of complaints per case filed has been less than 1% for all courts and all judges.⁴⁸

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

⁴⁸ 2011 Report, the Judiciary of the Republic of the Marshall Islands, P27.

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

Four PJDP countries (29%) (the Republic of the Marshall Islands, Niue, Republic of Palau and Tonga) 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 two years 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.

Table 4.10.1 Percentage of complaints received concerning a court staff member – Year 2 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Data unavailable	Data unavailable	Data unavailable	0%	Data unavailable	0%	0%
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	Data unavailable	Data unavailable	No data is collected as there is no process for lodging a complaint.	0%	Data unavailable	Data unavailable

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 received by the number of judicial officers.

Key finding

10 of the 14 PJDP countries (71%) have one or more court that is 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 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 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).

Tonga has one of the highest ratios of cases to judicial officers amongst the PJDP countries. 596 cases were filed in the Supreme Court in 2011 with two justices assigned to hear these cases and 13,498 cases were filed in the Magistrates Courts in 2011 with two justices assigned to hear these cases.

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 2011 was 315. For the two High Court Justices this equates to an average caseload of 157.5 new cases for 2011. These figures are consistent with recent years, although the figure fluctuates:

- *for 2010, 136 cases per justice;*
- *for 2009, 160 cases per justice;*
- *for 2008, 171.5 cases per justice; and*
- *for 2007, 171.5 cases per justice.⁴⁹*

In the Republic of Palau, there is one judge in the Court of Common Pleas where 1,594 cases were filed in 2012.

⁴⁹ 2011 Report, the Judiciary of the Republic of the Marshall Islands, P17.

Table 4.11.1 Average number of cases per judicial officer– Year 2 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
High Court 2933 cases filed and 24 judicial officers	Supreme Court 116 cases filed and 4 judges	Magistrates Court 155 magistrates hear 5695 cases	High Court 315 cases filed and 2 judicial officers	Data unavailable	High Court 126 cases filed and 12 judicial officers	Supreme Court 339 Trial division cases filed and 53 appeal cases and 4 justices Court of Common Pleas 1594 cases filed and 1 judge Land Court 53 cases filed and 3 judges
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	Supreme Court 4 judges 560 cases filed	Data unavailable	The number of cases received per law commissioner in 2011-2012 is: Atafu: 46, Fakaofu: 25, Nukunonu: 14	Court of Appeal: 23 cases and 3 judges. Supreme Court: 596 cases filed and 2 judicial officers. Magistrates Court: 13498 cases filed and 7 Magistrates	Data unavailable	Supreme Court: 5 judges. 784 cases filed. Magistrates Court 8 Magistrates 2228 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 received by the number of court staff.

Key finding

Ten of the PJDP countries (71%) 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).

Tonga had one of the highest ratios of cases to court registry staff amongst the PJDP countries with 13,498 cases filed in 2011 and 10 court staff members in the Magistrates Court involved in the processing of cases from the date of filing to finalisation.

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 six clerks that regularly process High Court cases, their 2011 caseload was 52.50 cases per clerk. As with the justices, the clerks' caseloads fluctuate from year-to-year within a limited range:

- *for 2010, 45.33 cases per clerk;*
- *for 2009, 53.33 cases per clerk;*
- *for 2008, 57.17 cases per clerk; and*
- *for 2007, 57.17 cases per clerk.⁵⁰*

Table 4.12.1 Average number of cases per court staff member – Year 2 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
High Court 2933 cases filed and 11 court staff	Supreme Court 116 cases filed and 12 court staff	Magistrates Court 5695 cases and 33 court staff	High Court 315 cases filed and 6 High court staff members	Data unavailable	High Court 126 cases filed and 8 court staff	37 court staff for 392 Supreme Court cases, 1594 Court of Common Pleas cases and 53 land cases
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	Supreme Court 590 cases filed and 13 court staff	Data unavailable	The number of cases filed per law clerk in 2011-2012 is: Atafu: 46, Fakaofu: 25, Nukunonu: 14	Supreme Court 596 cases filed and 14 court staff Magistrates Court 13498 cases filed and 10 staff	Data unavailable	Supreme Court 784 cases filed and 7 court staff Magistrates Court 2228 cases filed and 7 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

9 of the 14 PJDP countries produced an Annual Report⁵¹ in the year immediately following the reporting period and published it on the internet. 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 two years of the Pacific Judicial Development Programme.

Key finding

3 of the 14 PJDP countries (Cook Islands, the Federated States of Micronesia and Tokelau) produced an annual report for the first time on the work of the courts during 2011/2012.

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 PJDP/ PacLII website as well as the court's own website where these exist.

51 2011 Report, the Judiciary of the Republic of the Marshall Islands, P17.

The annual reports of nine 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 Apia in March 2012.

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 2 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
Annual Report Available online (First court Annual Report)	Annual Report available online (First court Annual Report)	Data available in the speech by the Chief Justice at the opening of the new legal year is available online.	Annual Report available online	Data unavailable	Annual Report Available online	Data unavailable
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
Data unavailable	2011-2012 Annual Report is published but not available online	Data available in the speech by the Chief Justice at the opening of the new legal year is available online	Annual Report available online (First court Annual Report)	Annual Report available online	Data unavailable	Annual Report available online



Annual report is publicly available for the previous year.



Produces an annual report for the previous year but in 2012 it is not clear how the public can access it.



Does not produce an annual report for the previous year.

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 Hardcopy Yes (2008)	Online No Hardcopy No	Online 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.	Online Yes (2010) Hardcopy Yes (2010)	Online Yes (2009-2010) Hardcopy Yes (2009-2010)	Online Yes (2009-2010) Hardcopy Yes (2009-2010)	Online No 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 Hardcopy Yes (2007)	Online No Hardcopy Yes (2009)	Online Yes (2009) Hardcopy Yes (2009)	Online No Hardcopy No	Online No Hardcopy Yes (2010)	Online No Hardcopy No	Online Yes (2009) Hardcopy Yes (2010)
Magistrates Court Online No Hardcopy Yes (1982)						

Indicator 14 Transparency–Court Services Information

Information on court services that is publicly available.

Key finding

5 of the 14 PJDP countries 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 present information on court services on their websites. There is a **trend improvement** in this indicator over the two years 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 2 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	No information available on how to bring a case to court or other court services	Information on the RMI courts is available on the website: www.rmicourts.org	Data unavailable	No information 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
Supreme Court and National Court National and Supreme Courts of PNG limited information on http://www.pngjudiciary.gov.pg Magistrates Court www.magisterialservices.gov.pg	Data unavailable	Data unavailable	No information available on how to bring a case to court or other court services.	No information available on how to bring a case to court or other court services.	Data unavailable	No information available on how to bring a case to court or other court services.

The PNG Magisterial Services upgraded their website in December 2011. The website includes a page entitled: “How to go to court” in which a number of questions about bringing a civil matter to court are answered in non-legal language. The website provides a wealth of statistical information about the Magisterial Services and also includes information about court fees, PDF and Word versions of court documents, as well as court sitting schedules including listings of the cases to be heard on particular days.

The Federated States of Micronesia re-launched its website during the last year. It includes information on court calendars, forms and rules, history and structure of the court.

The Republic of the Marshall Islands Judiciary’s web site was designed and developed under a grant from the Pacific Judicial Development Program, with funding from AusAID and NZAID. The website contains a number of resources, including descriptions of the courts, rules of admission and practice, court rules, Supreme Court and selected lower court cases, the Constitution, statutes, and selected regulations, customary law resources, and annual reports.

In the Republic of Palau, the judiciary’s website was relaunched in January 2012. The new website features a searchable calendar of upcoming trials and hearings, court forms including some information on how to complete them, a link to PaCLII for information on published judgments from the appellate division of the Supreme Court, as well as a section on frequently asked questions.

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 PaCLII website with 10 of the 14 countries (71%) 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 PaCLII website with 9 of the 14 countries (64%) publishing judgments online in the previous year. There is a **trend improvement** in this indicator over the two years 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 Republic of 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 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.

Recommendation

Chief Justices, at their Leadership workshop held from 18-20 October 2011 in Port Vila, 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.

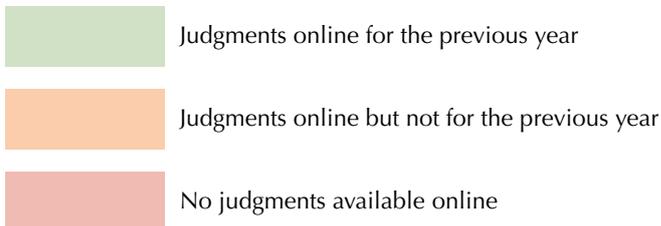


Table 4.15.1 Court publishes judgments on the Internet (through PacLII or their own website) – Year 2 Trend Data

Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
PacLII: November 2012 Court of Appeal & High Court	PacLII: April 2010 FSM Supreme Court Website Supreme Court & State Court Decisions	PacLII: April 2013 Court of Appeal, High Court and Magistrate Court decisions	PacLII: December 2011 Court Website: 2011 Supreme Court, selected High Court and Traditional Rights Court decisions	PacLII: March 2012 Supreme Court & District Court	PacLII: October 2010 High Court decisions	PacLII: May 2013 Supreme Court
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
PacLII: May 2013 Supreme Court National Court & District Court decisions	PacLII: April 2013 SamLII: May 2013 Court of Appeal, Supreme Court and District Court	PacLII: May 2013 Court of Appeal, High Court and Magistrates Court decisions	No judgments published.	PacLII: May 2013 Court of Appeal, Supreme Court and Land Court decisions	PacLII: December 2012 Court of Appeal and High Court	PacLII: May 2013 Court of Appeal, Supreme Court, Magistrate Court and Island 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 Tokelau

B Cook Islands

C Republic of the Marshall Islands

This section explores three examples of national courts that have introduced ways of either providing more information to court stakeholders on the work of the courts or processes to better understand the views of court users on the level of service provided by courts. The first and second case studies focus on how the Cook Islands and Tokelau judiciaries produced a court annual report for the first time during the last year. The third case study documents how the Republic of the Marshall Islands judiciary has undertaken a survey of court clients to evaluate their level of satisfaction with the services provided by the courts. The access and fairness survey undertaken by the Republic of the Marshall Islands was designed and implemented by the courts independently and within existing court budgets with PJDP assisting in the presentation and analysis of key survey findings.

Case Studies **A and B**

Annual Reports of Tokelau and the Cook Islands

In the first year since the publication of the 2011 PJDP Baseline Report on Court Performance, 3 of 14 PJDP judiciaries⁵² published an annual report for the first time presenting information on the work of courts in these countries. This section considers the experience of Tokelau and the Cook Island judiciaries in developing their first court annual report.

Tokelau

In the 2011 PJDP Baseline Report on Court Performance, Tokelau was able to report on 4 of the 15 court performance indicators. In the 2012 PJDP Trend Report Tokelau is able to report on 10 of the 15 court performance indicators.

Tokelau issued its first court Annual Report in late 2012 and was involved in piloting the PJDP toolkit on court Annual Reports. The Tokelau Annual Report covers the July 2011 to June 2012 reporting period. In less than six months, the judiciary in Tokelau was able to (i) compile, analyse and present court performance data in its Annual Report, (ii) translate the document from the Tokelauan language into English in order to discuss the first court annual report with the Chief Justice of Tokelau who is resident in New Zealand and (iii) present the court Annual Report to its Parliament.

⁵² The Federated States of Micronesia also published a Court Annual Report for the first time.

An initial meeting was arranged in June 2012 to consider how judicial stakeholders could compile case data and other information about the judiciary from the three islands comprising Tokelau. The workshop participants were drawn from the Law Commissioners, Law Clerks, Police as well as members of the Village Council (Taupulega) and NGO representatives. The participants agreed that they could present the information in the Annual Report clustered around the 5 main themes of the Law and Justice Key Objectives in the Tokelau National Strategic Plan 2010-2015:

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.

(Tokelau National Strategic Plan 2010-2015: Law and Justice Key Objectives)

By the end of the June workshop, the participants had outlined the different sections of the Annual Report, identified who was responsible for the first draft as well as the next steps of consultation and editing. Tokelau's first Annual Report for the judiciary was tabled before the Cabinet and Parliament (General-Fono) in October 2012.

Table 5.1 Timeframe for drafting the first Tokelau Court Annual Report

Time frame	Action
June 2012	Initial workshop with Tokelauan Law Commissioners, Law Clerks, Police as well as members of the Village Council (Taupulega) and NGO representatives.
By mid-July	All sections of the Annual Report to be emailed to Tokelau National Coordinator.
July	Review court workload data from the quarterly reports from each of the three law clerks.
August	Tokelau National Coordinator compiles inputs from the three islands, produces the first draft of the Tokelau annual report and sends it to the villages for consultations.
September	Tokelau National Coordinator (i) provides a draft of the annual report to the Ulu of Tokelau to review and amend and (ii) translates the document into English.
October	Ulu of Tokelau tables the annual report of the Tokelau judiciary before the Cabinet and parliament (General Fono).
November	Foreword by the Chief Justice of Tokelau received and translated.
December	Tokelau National Coordinator arranges for the publication of the Tokelau judiciary annual report and its distribution to interested parties.
March 2013	Tokelau Annual Report published on www.paclii.org

Tokelau's National Coordinator reported that the first Tokelau court Annual Report had met with very positive feedback from Members of Council, the Administrator of Tokelau, General Fono Members, and members of the community. The Foreword written by the Chief Justice of Tokelau is included below.

Foreword to the first Tokelau Court Annual Report

The rule of law underpins the freedom and safety of everyone. But it is fragile. It is not safe in any society unless the men and women of the community support the law and the system of justice which upholds it. It is difficult for anyone to support the law or the system of justice unless they are known.

In Tokelau, the laws are published and available to be read by everyone. But until now the system of justice and how it operates has not been well understood. When I was privileged to make my first visit to Tokelau as Chief Justice in May 2011, it was difficult even for me to find out about the system of justice. It was only after talking to the Law Commissioners, to the Taupulega, and to the Women's Groups on Nukunonu, Fakaofu, and Atafu that I began to get a proper understanding. There was no written explanation or description available to me. That gap has now been filled by this excellent publication.

The first Tokelau Judicial Annual Report describes the legal system of Tokelau. It is immediately clear that, even in the sixteen months since I visited, there has been great effort to make judicial service more accessible and better understood. Much has happened in the last year, particularly in the training and organisation of the police. A comparison of the judicial work in the three villages, which is undertaken in this report, provides standards against which future improvements can be measured. Such measurements improve access to justice and equality of treatment. They are also a great help to the Law Commissioners in responding to the needs of their communities. Most importantly, they allow the people of Tokelau to understand the administration of justice and to take ownership of it. As I have already suggested, without that ownership and the community commitment it leads to, the rule of law is at risk.

So I congratulate those who have compiled this report. I look forward to similar annual publications. And I offer my very best wishes to all who work for justice in Tokelau.

Rt Hon Dame Sian Elias
Chief Justice of Tokelau

Cook Islands

In the 2011 PJDP Baseline Report on Court Performance, the Cook Islands were able to report on one of the 15 court performance indicators. In the 2012 PJDP Trend Report the Cook Islands are able to report on 10 of the 15 court performance indicators.

The Cook Islands issued their first court Annual Report in May 2013. Paragraph 1 of the Cook Islands Annual Report states:

Para 1.: This is a Report on the operations of the Court of Appeal and High Court of the Cook Islands for the period 1 July 2011-30 June 2012 (corresponding with the Ministry's financial year). It has been prepared by reference to:

- *Ministry of Justice, Business Plan 2011-12, prepared by Claudine Henry-Anguna, Acting Head of Ministry;*
- *Pacific Judicial Development Programme (PJDP), 2011 Court Baseline Report.*

The Cook Islands Court Annual Report states that it “is prepared for the purposes of Government, Court users, the media and funding bodies.” It is available to the public as it is published on both the PaCLII and the Cook Islands Ministry of Justice website.

The Annual Report presents an interesting model for the Pacific as it is a collaboration between the Court and the Ministry of Justice to provide greater information to the people of the Cook Islands on the work of the court system. The Annual Report is signed by the Chief Justice of the Cook Islands, the Head of the Ministry of Justice and the Registrar. The Foreword written by the Prime Minister and Minister of Justice of the Cook Islands is included below. The report states in its opening section that, “the intention is that from now on there should be annual reports prepared no later than May in the year following the relevant financial year. As electronic data capture becomes more reliable, it is anticipated that this report will include greater detail...”

The concluding remarks of the Cook Islands court annual report include the following:

The court is reliant, in part, on external funding and it is the expectation of such bodies that a court should provide an annual report. The PJDP, in particular, has been assisting Pacific courts to provide appropriate reporting details and their assistance is gratefully acknowledged.⁵³

Foreword to the first Cook Islands’ Court Annual Report

Access to justice is a fundamental human right in any democratic society. This is reflected in Articles 64 and 65 of the Constitution of the Cook Islands.

Despite the challenges of an ever-changing society, and the numerous constraints we face as a small Island nation, the Ministry of Justice has continued to maintain access to justice as one of its main core functions.

In this first report on the operations of the High Court and Court of Appeal, I am pleased that steps are being taken to improve the provision of court services to the people of the Cook Islands. The Government will continue to provide the necessary resources and support to ensure that the right of any individual to access justice is not adversely affected, or denied.

I am also thankful for the Pacific Judicial Development Program, for its continued support in providing training for members of the Judiciary and court staff.

This report is testimony to the valued contributions and professionalism of the staff involved in upholding the priority of Law and Order in our community.

Kia Manuia Hon. Henry Puna
Prime Minister and Minister of Justice

Case Study C

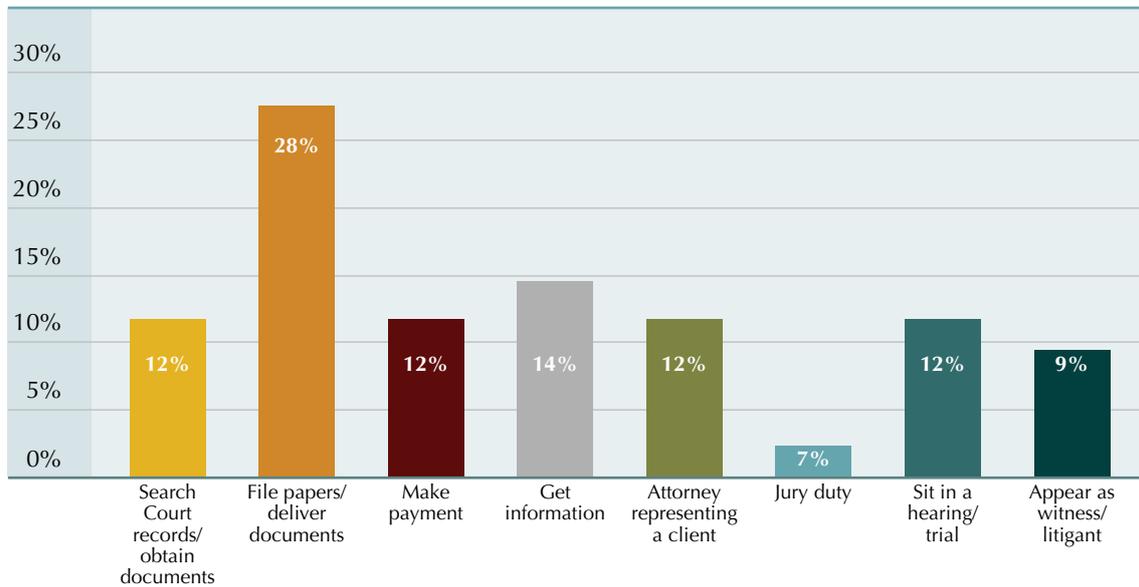
Findings from Republic of the Marshall Islands Judiciary Access and Fairness Survey

The Republic of Marshall Islands implemented an access and fairness court survey over two weeks from April 9-20, 2012 at both the Majuro and Ebeye courthouses. Majuro had 101 survey participants and Ebeye had four survey participants. In 2012, Majuro had 259 High Court cases filed and 3,214 District Court cases filed (total: 3,473 cases) and Ebeye had 34 High Court cases and 349 District Court cases (total 383 cases).

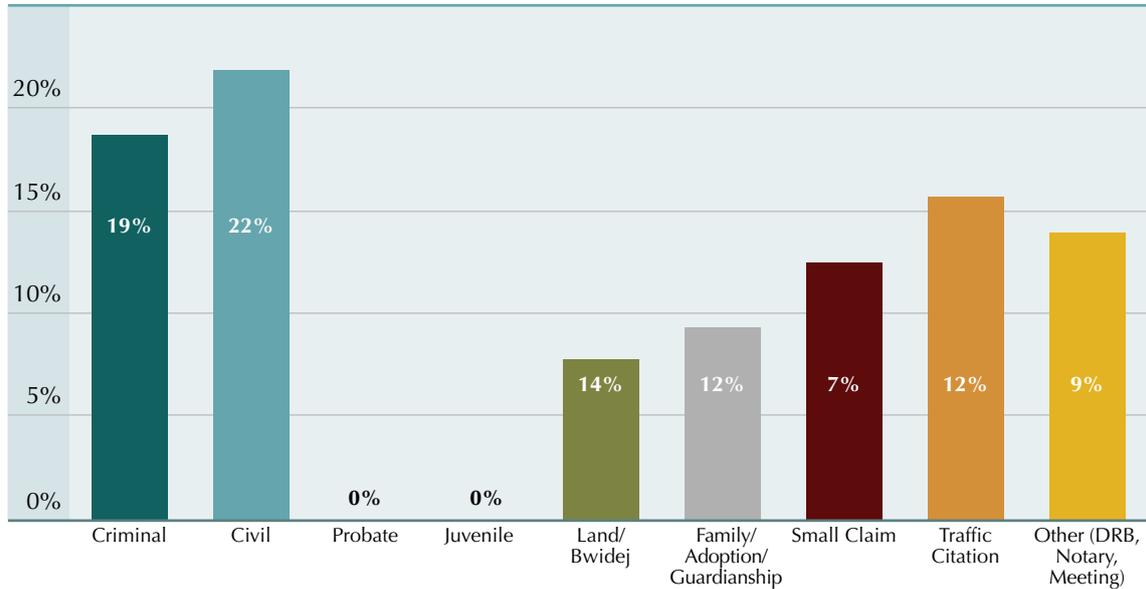
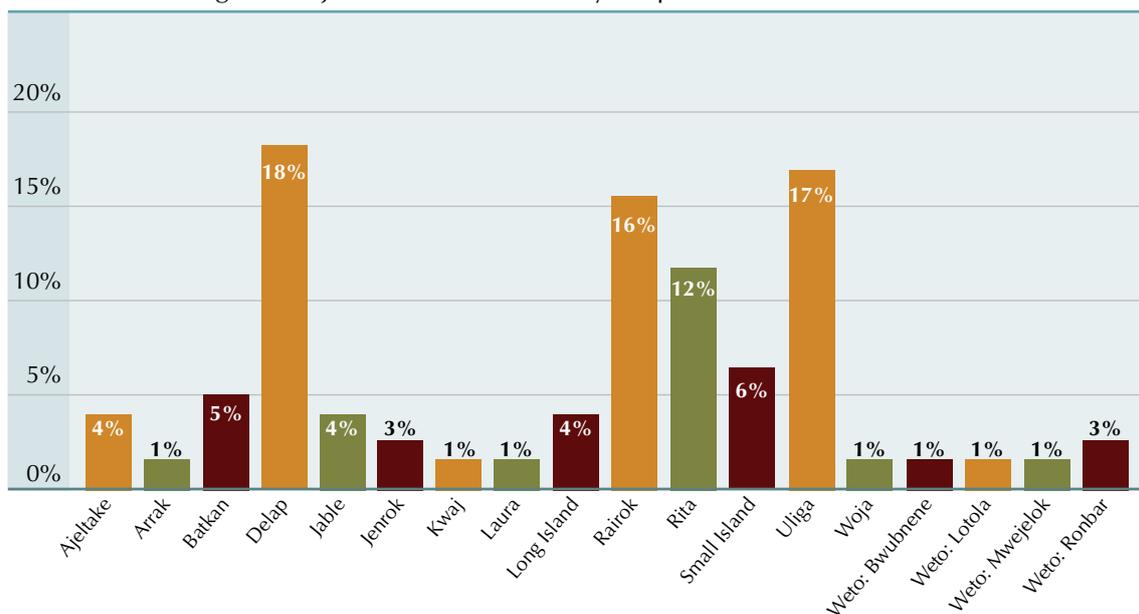
The survey questionnaire was based upon questions used in the International Framework for Court Excellence (IFCE) self-assessment questionnaire and a number of surveys from other courts around the world. The Supreme Court of Palau had trialled a similar access and fairness survey in 2011. The survey questionnaire had 11 questions related to access to the court and four questions related to issues of fairness.

Over two thirds of survey respondents who visited the courthouse interacted with court staff in order to file papers/deliver documents, obtain information, search court records/obtain documents or make a payment. Registry court staff provide the first impression of service standards in a court. Many court clients will have a greater degree of interaction with court staff rather than with judicial officers. For this reason it is important to have effective training programmes for registry court staff as well as complaint/feedback mechanisms so that the public can comment on the service they receive at court registries.

Table 5.2 Reasons given by survey Respondents for visiting the Court House



Court clients who participated in the survey at the Majuro courthouse resided in the following villages: Delap (18%), Rairok (16%), Uliga (17%) and Rita (12%). In Majuro, court clients who participated in the survey were attending the court for predominantly civil and criminal matters.

Table 5.3 Type of Case that the survey Respondent is attending court for**Table 5.4** Village in Majuro that the survey Respondent resides in

Survey results

The RMI judiciary asked its judges and court staff to complete the IFCE self assessment questionnaire in July/August 2011. Following the client survey undertaken in April 2012 it is possible to compare the responses of court clients, judges and court staff to the same survey questions. The Court received overwhelmingly positive responses from court users as set out in the tables that follow.

It is interesting to observe in the results set out below that the court users in the Republic of the Marshall Islands have a higher opinion of the level of service provided by the courts than the judges and court staff who indicate that they wish to improve the services currently offered. The views of the court staff and the judges in the Marshall Islands are quite similar in relation to the level of service provided by the court. This would tend to indicate that there is a regular dialogue between judges and court staff on how to provide the best services possible to the public and what the next steps of the court will be to achieve this.

Table 5.5 People are able to get their court business done in a reasonable amount of time

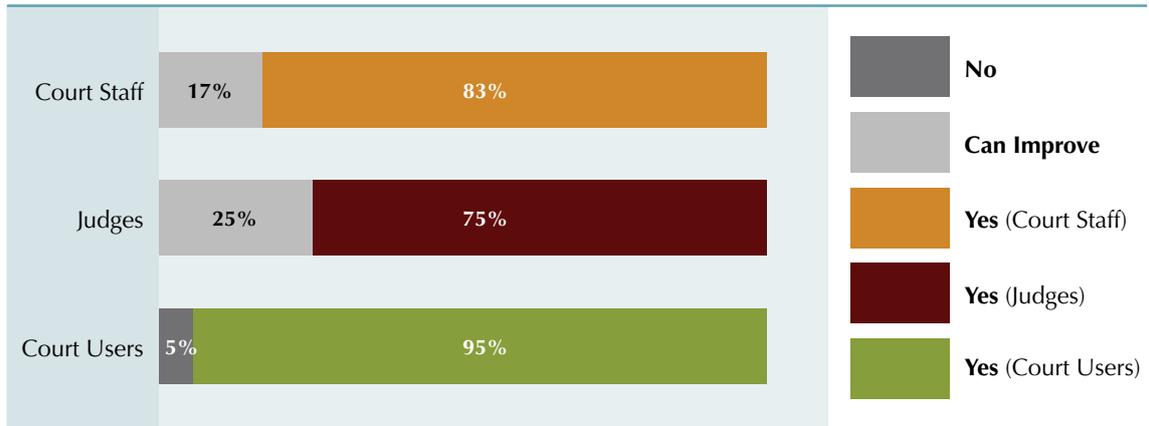


Table 5.6 Court users feel safe in the courthouse

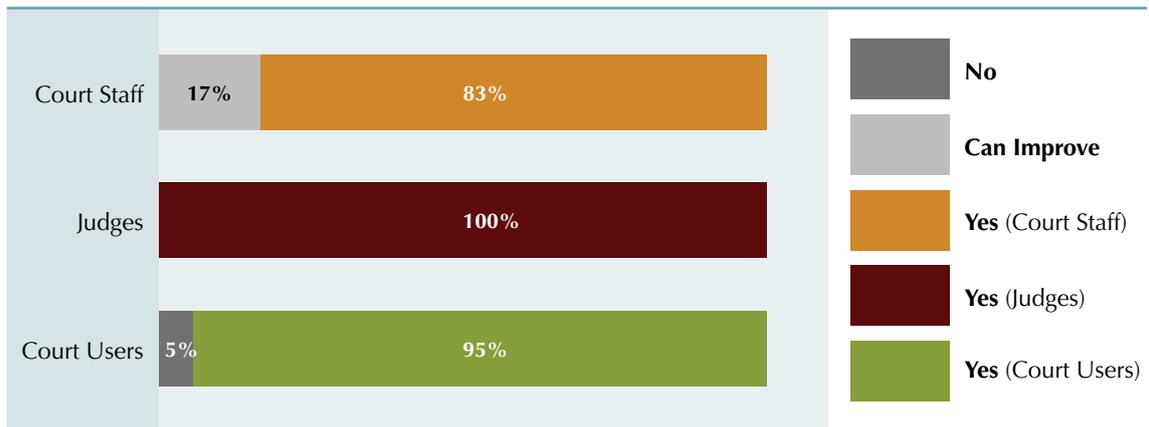


Table 5.7 Court Users were able to get the information they needed

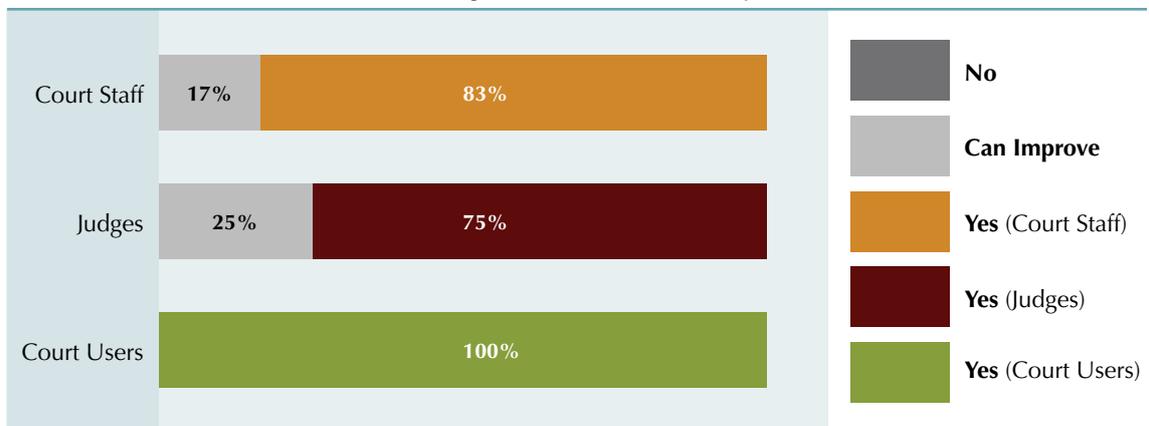


Table 5.8 Court Users felt they were treated with courtesy and respect

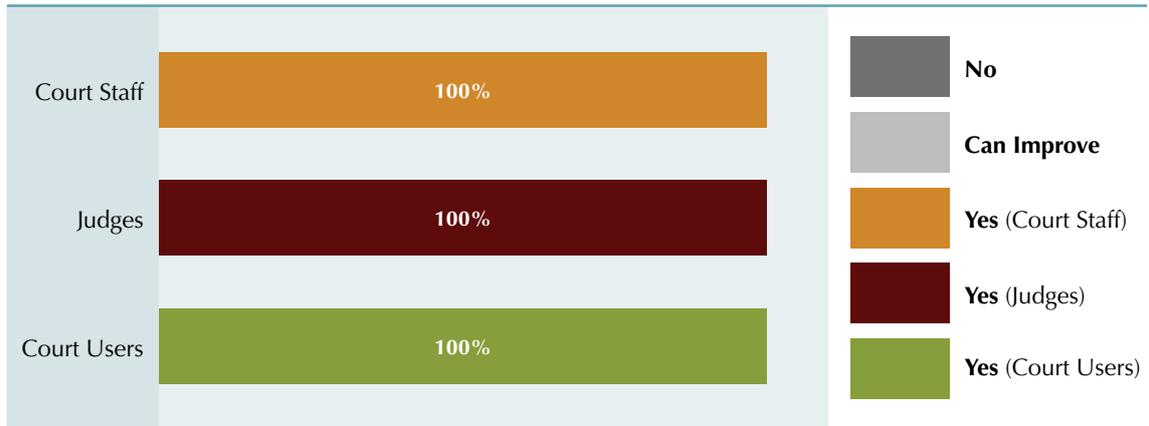


Table 5.9 Court Users were easily able to find the courtroom or office they needed

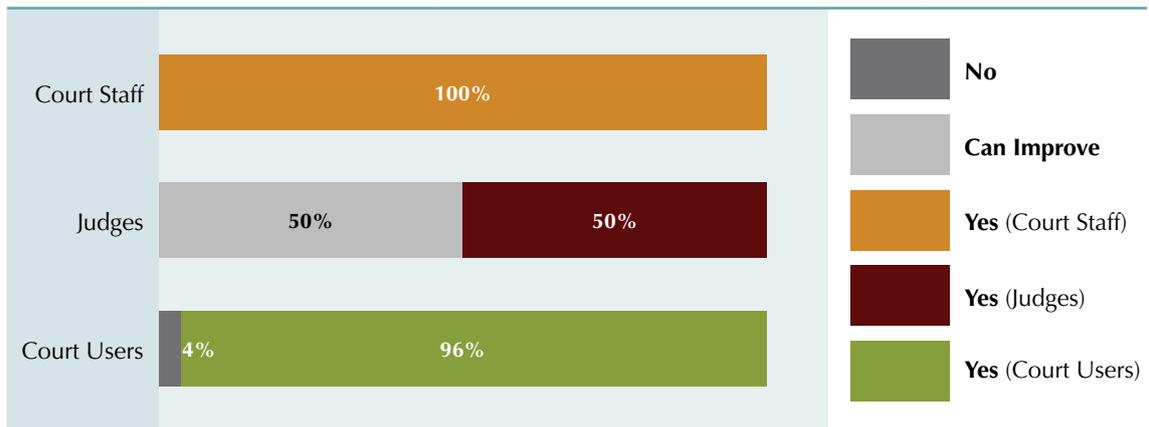


Table 5.10 Court Users felt the way their case was handled was fair

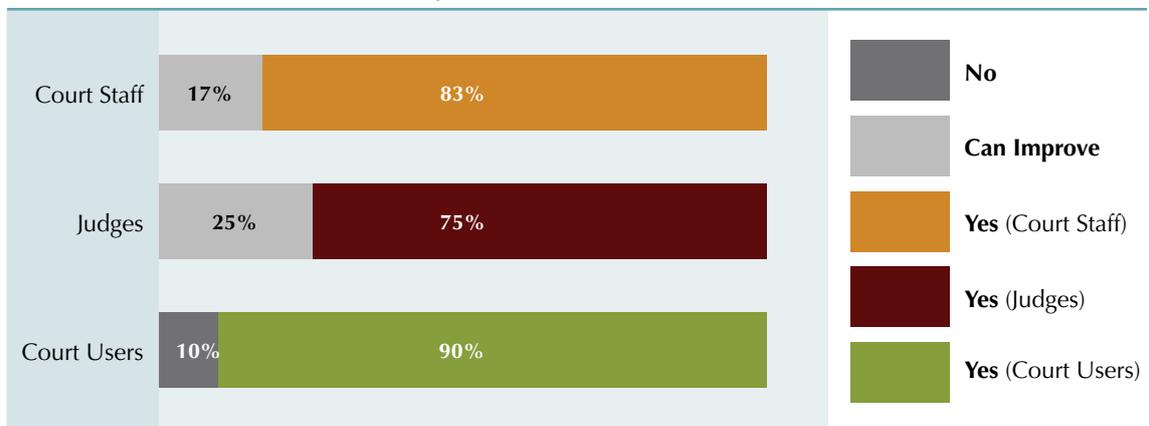


Table 5.11 Court Users felt they were treated the same as everyone else

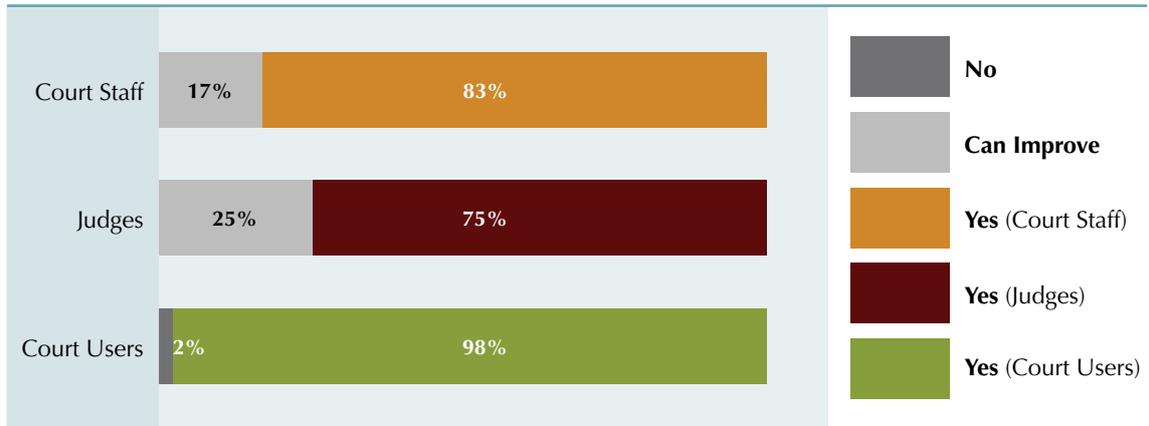
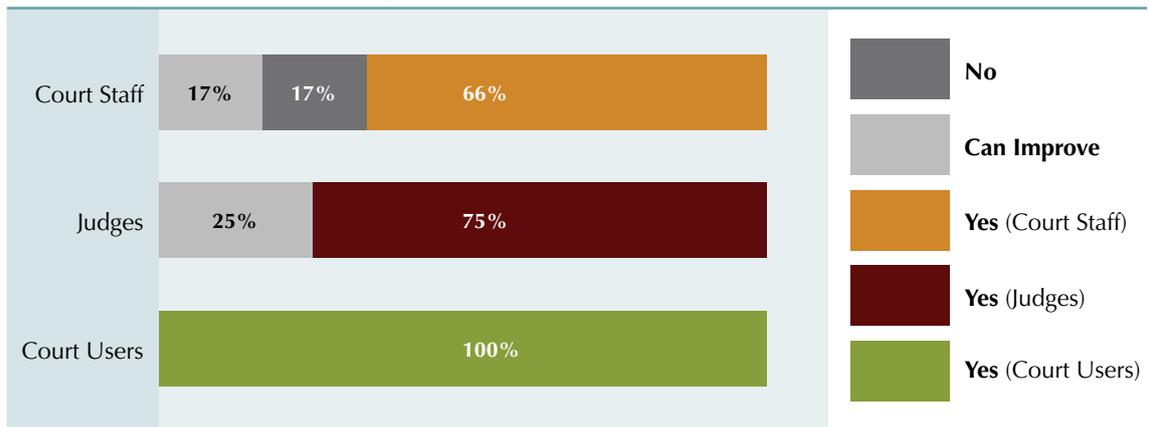


Table 5.12 Court Users leaving the court knew what to do next in relation to their case



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 and the Republic of Palau and the Republic of the Marshall Islands in 2013. Baseline reports for Samoa and the Federated States of Micronesia are 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 countries that UNICEF’s Pacific programme works with are home to about 2 million people of which just over 900,000 are children below 18 years of age. Some 400,000 of these children live in the five countries – Kiribati, Vanuatu, Solomon Islands, Tuvalu and Samoa – classified by the United Nations as least developed countries.

The baseline reports that have been completed by UNICEF follow a similar format for each of the five 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 five 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. The Republic of the Marshall Islands is the only PJDP country to present juvenile justice data in its Annual Report.

Recommendation

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

Table 6.1 UNICEF Juvenile justice indicators

	UNICEF baseline report reference	UNICEF Indicator	Kiribati Islands	Solomon Islands	Vanuatu	Palau	RMI
1	7(1)(c)	In any actions taken, the best interests of the child will be the primary consideration.	No	No	No	Partly	Partly
2	9(2)	The minimum age of criminal responsibility has been established which is at least 12 years of age.	Partly	Yes	No	Partly	Partly
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	Yes	Partly	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).	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	Yes	No	Yes	No
6	9(20)	All cases involving children under 18 are required to take place in closed court.	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.	Yes	Yes	Yes	Yes	Partly
8	9(37)	Children are separated from adults in all places of detention, including police custody, pre-trial detention centres and prisons.	Partly	Yes	Yes	Partly	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	Yes	Yes	Yes except for [f] partly	No
10**	9(50)	All children in conflict with the law have access to effective complaints procedures concerning all aspects of their treatment.	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	Partly	No	No	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 (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 (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)		

7 Gender Disaggregated Data and Indicators

Key finding

In its 2011 Annual Report, the Republic of the Marshall Islands presented Gender Disaggregated Data for criminal cases (1 of 14 PJDP countries). Gender Disaggregated 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

12 of 14 PJDP countries (86%) are able to provide data on the gender of their judges and magistrates. Of the 12 countries with this gender-disaggregated data, the Republic of Palau has an equal number of male and female Supreme Court justices and 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 Magistrates Courts of PNG and Vanuatu have publicly available data⁵⁵ 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.

Table 7.1 sets out the gender distribution of judges and magistrates in the PJDP countries in 2011. During the last year, Samoa appointed its first female Supreme Court justice, Her Honour Ida Malosi and its second female District Court judge, Ms Leilani Warren. PNG appointed its first female Chief Magistrate, Ms Nerrie Eliakim to oversee the work of the approximately 90 Magistrates in PNG.

Table 7.1 2011 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	72%	High: 5	28%
FSM	Supreme: 3	75%	Supreme: 1	25%
Kiribati	Not available	Not available	Not available	Not available
Marshall Islands	District: 3 High: 2	District: 100% High: 100%	District: 0 High: 0	District: 0% High: 0%
Nauru	Magistrates: not available Supreme: 1	Magistrates: not available Supreme: 100%	Magistrates: not available Supreme: 0	Magistrates: not available Supreme: 0%
Niue	Court of Appeal: 4 High Court 6	100% 60%	Court of Appeal: 0 High Court 4	0% 40%
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: 73	National:87% Supreme:86% Magistrates: 83%	National: 3 Supreme: 4 Magistrates: 15	National:13% Supreme:14% Magistrates: 17%
Samoa	Supreme: 4 District Court: 2	Supreme:80% District Court: 50%	Supreme: 1 District Court: 2	Supreme:20% District Court:50%
Solomon Islands	Not available	Not available	Not available	Not available
Tokelau	3	100%	0	0%
Tonga	Court of Appeal: 4 Supreme: 2 Magistrates: 6	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 Courts: 1	100% 100%	0 0 0%	0%
Vanuatu	Supreme: 5 Magistrates: 4	Supreme: 100% Magistrates: 50%	Supreme: 0 Magistrates: 4	Supreme: 0% Magistrates: 50%

Women judicial officers comprise 50% or more of judicial officers in a particular court.

8

Key Findings and Recommendations

27 key findings and 24 recommendations from the Baseline 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 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.</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 Tokelau where there are no court fees to 577% 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 One PJDP court presents their court performance standards and data on whether these have been achieved in their Annual Report.</p> <p>Key finding 4 6 of 14 PJDP countries (43%) are able to report on 10 or more of the 15 court performance indicators.</p> <p>Key finding 5 In 2012, 1 of 14 PJDP countries undertook a court user survey.</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 this baseline report.</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>
Juvenile Disaggregated Data and Indicators	
<p>Key finding 6 In the five 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. The Republic of the Marshall Islands is the only PJDP country to present juvenile justice data in its Annual Report.</p>	<p>Recommendation 4 In coordination with the UNICEF Pacific Regional Office, PJDP work with courts to build their capacity to collect and present in Annual Reports disaggregated data on children's cases, including the outcome of the case and the type of sentence that may be imposed.</p>

Key finding	Recommendation
Gender Disaggregated Data and Indicators	
<p>Key finding 7 In its 2011 Annual Report, the Republic of the Marshall Islands presented Gender Disaggregated Data for criminal cases (1 of 14 PJDP countries). Gender Disaggregated Data are particularly relevant for greater understanding of family law and family violence cases.</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>Key finding 8 12 of 14 PJDP countries (86%) are able to provide data on the gender of their judges and magistrates. Of the twelve countries with this gender-disaggregated data, the Republic of Palau has an equal number of male and female Supreme Court justices and Samoa and Vanuatu an equal number of magistrates.</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
Indicator 1: Case Management Clearance Rate: The result against this indicator is obtained by dividing cases finalised by cases filed.	
<p>Key finding 9 9 of 14 PJDP countries (64%) 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 no change in this indicator over the two years of the Pacific Judicial Development Programme.</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>Key finding 10 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 8 Court staff members that are responsible for tracking the number of cases filed and the number of cases finalised using Word or Excel documents would benefit from training on the use of filters and other techniques so as to more easily extract case management data from these documents.</p>

Key finding

Recommendation

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.

Key finding 11 Three PJDP countries (21%) (Republic of the Marshall Islands, Republic of Palau and Tokelau) 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 two years of the Pacific Judicial Development Programme.

Key finding 12 The Republic of the Marshall Islands was the only PJDP jurisdiction to refer to a time standard for the hearing of different types of cases in its 2011 Annual Report. The High Court's goal is to maintain a clearance rate for juvenile cases of 100% over the most recent two years, and/or to dispose of juvenile cases within six months of filing.

Recommendation 9 Courts present data in their annual report on the average duration of different types of cases (e.g. civil, criminal, small claims, juvenile cases etc) finalised in the previous court reporting cycle.

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. [Note: A time standard may stipulate that a certain percentage of cases are to be finalised within a certain time period.]

Indicator 3: Case Management

The percentage of appeals: The result against this indicator is obtained by dividing the number of cases appealed by the number of case applications.

Key finding 13 7 of the 14 PJDP countries (50%) 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, 8 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 downward trend in this indicator over the two years of the Pacific Judicial Development Programme.

Recommendation 11 PJDP countries present data in their annual report on the number of cases from each level of court that are appealed 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.

Key finding	Recommendation
<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 14 6 of 14 PJDP countries (43%) (Cook Islands, Republic of the Marshall Islands, Niue, the Republic of Palau, Tokelau and Tonga) 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, 3 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 two years of the Pacific Judicial Development Programme.</p>	<p>Recommendation 12 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>
<p>Indicator 5: Accessibility of Courts</p> <p>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.</p>	
<p>Key finding 15 6 of the 14 PJDP countries (43%) 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, 3 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 two years of the Pacific Judicial Development Programme.</p>	<p>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.</p>
<p>Indicator 6: Accessibility of Courts</p> <p>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 filed.</p>	
<p>Key finding 16 8 of 14 PJDP courts (57%) are able to provide data on the percentage of cases heard through a circuit court. In 5 of the 8 countries that are able to provide data, no circuit courts are held. In the 2011 Baseline Report, 7 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 two years of the Pacific Judicial Development Programme.</p>	<p>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.</p>

Key finding

Recommendation

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 17 Six PJDP countries (43%) (the Cook Islands, Republic of the Marshall Islands, Niue, Republic of Palau, Tokelau and Tonga) collect data on the percentage of cases in which a party receives legal aid. In the 2011 Baseline Report, 2 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 two years 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.

Indicator 8: Complaint Handling and Feedback

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

Key finding 18 Three PJDP countries (21%) (Kiribati, Republic of the Marshall Islands and the Republic of Palau) have a documented process for receiving and processing a complaint. For the Republic of the Marshall Islands and the Republic of Palau the Judicial Code of Conduct is available on the courts' website. In the 2011 Baseline Report, 3 of 14 PJDP courts (21%) had a documented process of receiving and processing a complaint. There is no change for this indicator over the two years of the Pacific Judicial Development Programme.

Recommendation 16 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.

Key finding

Recommendation

Indicator 9: Complaint Handling and Feedback

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.

Key finding 19 Five PJDP countries (36%) (Cook Islands, and the Republic of the Marshall Islands, Niue, Republic of Palau and Tonga) 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 two years of the Pacific Judicial Development Programme.

Recommendation 17 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.

Indicator 10: Complaint Handling and Feedback

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 20 Four PJDP countries (29%) (the Republic of the Marshall Islands, Niue, Republic of Palau and Tonga) 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 two years of the Pacific Judicial Development Programme.

Recommendation 18 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.

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 received by the number of judicial officers.

Key finding 21 10 of the 14 PJDP countries (71%) have one or more court that is 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 two years of the Pacific Judicial Development Programme.

Recommendation 19 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).

Key finding

Recommendation

Indicator 12: Court Staff Resources

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

Key finding 22 Ten of the PJDP countries (71%) 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 20 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).

Indicator 13: Transparency

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 23 9 of the 14 PJDP countries produced an Annual Report in the year immediately following the reporting period and published it on the internet. 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 two years of the Pacific Judicial Development Programme.

Recommendation 21 PJDP 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 PJDP/ PacLII website as well as the court's own website where these exist.

Key finding 24 3 of the 14 PJDP countries (Cook Islands, the Federated States of Micronesia and Tokelau) produced an annual report for the first time on the work of the courts during 2011/2012.

Key finding

Recommendation

Indicator 14: Transparency

Information on court services that is publicly available.

Key finding 25 5 of the 14 PJDP countries 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 present information on court services on their websites. There is a trend improvement in this indicator over the two years of the Pacific Judicial Development Programme.

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.

Indicator 15: Transparency

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

Key finding 26 13 of the 14 PJDP countries (93%) publish judgments on the internet using the PacLII website with 10 of the 14 countries (71%) 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 PacLII website with 9 of the 14 countries (64%) publishing judgments online in the previous year. There is a trend improvement in this indicator over the two years of the Pacific Judicial Development Programme.

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.

Key finding 27 10 of the 14 PJDP countries (71%) published decisions from the magistrates or district courts as well as the higher courts. The Republic of the Marshall Islands and Vanuatu also publish decisions of their Traditional Rights Court and Island Courts on the PacLII website.

Recommendation 24 Chief Justices, at their Leadership workshop held from 18-20 October 2011 in Port Vila, 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.

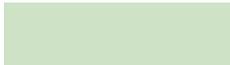
A summary of the percentage of the 14 PJDP countries that currently report on the 15 indicators is presented in Table 8.1.

Table 8.1 Percentage of the 14 PJDP countries that currently report on the indicator

Indicator	Percentage of the 14 PJDP countries that currently report on the indicator in the 2011 Baseline Report	Percentage of the 14 PJDP countries that currently report on the indicator in the 2012 Trend Report
1 Clearance rate	64% (9 of 14)	64% (9 of 14)
2 Average duration of a case from filing to finalisation	14% (2 of 14)	21% (3 of 14) ▲
3 The percentage of appeals	57% (8 of 14)	50% (7 of 14) ▼
4 Overturn rate on appeal	21% (3 of 14)	43% (6 of 14) ▲
5 Percentage of cases that are granted a court fee waiver	21% (3 of 14)	43% (6 of 14) ▲
6 Percentage of cases disposed through a circuit court	50% (7 of 14)	57% (8 of 14) ▲
7 Percentage of cases where a party receives legal aid	14% (2 of 14)	43% (6 of 14) ▲
8 Documented process for receiving and processing a complaint that is publicly available	21% (3 of 14)	21% (3 of 14)
9 Percentage of complaints received concerning a judicial officer	21% (3 of 14)	36% (5 of 14) ▲
10 Percentage of complaints received concerning a court staff member	14% (2 of 14)	29% (4 of 14) ▲
11 Average number of cases per judicial officer	57% (8 of 14)	71% (10 of 14) ▲
12 Average number of cases per member of court staff	43% (6 of 14)	71% (10 of 14) ▲
13 Court produces or contributes to an Annual Report that is publicly available in the following year	7% (1 of 14)	64% (9 of 14) ▲
14 Information on court services is publicly available	29% (4 of 14)	36% (5 of 14) ▲
15 Court publishes judgments on the Internet (court website or PacLII)	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.

9

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.⁵⁶

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.*



Table 9.1 2011 Baseline Report and 2012 Trend Report Summary of Court Performance Reporting

Indicator of Court Performance	2011 Baseline Report	2012 Trend Report
Able to report on the 15 PJDP court performance indicators.	<p>9 of 14 PJDP countries (64%) report on 5 or less of the 15 court performance indicators.</p> <p>2 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>6 of 14 PJDP countries (43%) report on 5 or less of the 15 court performance indicators.</p> <p>6 of 14 (43%) PJDP countries are able to report on 10 or more of the 15 court performance indicators.</p> <p>There are three 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.	1 of 14 PJDP countries produces or contributes to an annual report that is publicly available in the following year.	9 of 14 (64%) PJDP countries produce or contribute to an annual report that is publicly available in the following year.
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.	1 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.	2 of the 14 PJDP countries undertook court user surveys during 2011 (Republic of Palau and PNG).	1 of the 14 PJDP countries undertook a court user surveys during 2012 (Republic of the Marshall Islands).

References

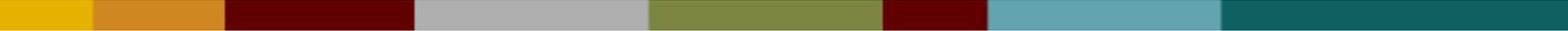
PJDP Country Court Annual Reports

The information presented in this 2012 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 PDJP courts:

	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 2011–2012	NO	Yes 2011–2012 PacLII and Ministry of Justice website
Federated States of Micronesia	FSM Judiciary Calendar Year 2012 Annual Report of Micronesia	YES www.fsmsupremecourt.org	YES 2012
Kiribati	Address by Chief Justice Sir John Muria at the formal opening of 2013 Court Year (2012 data)	NO	YES PacLII website
Marshall Islands	2011	YES http://rmicourts.org/	YES–2011 PacLII and own court website
Nauru	No new data publicly available	NO	YES–2009-2010 PacLII website
Niue	Annual Report 2011–2012	NO	YES –2011-2012 PacLII website
Palau	Court data for 2012	YES http://www.palausupremecourt.net/	NO
PNG Supreme & National Court	No new data publicly available	YES www.pngjudiciary.gov.pg	NO
PNG Magistrates Court	Court data from 2011 Annual Performance Report by PNG Law & Justice Sector Secretariat	YES http://www.magisterialservices.gov.pg/	NO
Samoa	2011-2012	YES http://www.mjca.gov.ws/ http://www.samlii.org/	NO
Solomon Islands	Address by Chief Justice Sir Albert Rocky Palmer CBE at opening of the Legal Year 2013 (2012 data)	NO	YES PacLII website
Tokelau	2011-2012	NO	YES PacLII website
Tonga	2011	YES http://www.justice.gov.to	YES PacLII website
Tuvalu	No Annual Report	NO	NO
Vanuatu	2011	NO	YES–2011 PacLII website

- Abbott, D, (2008), *Solomon Islands: Analysis of the 2005/06 household income and expenditure survey*. UNDP Pacific Centre and Solomon Islands National Statistics Office: Suva, Fiji.
- Abbott, D. and S. R. Muagututia, (2010), *Samoa: Analysis of the 2008 household income and expenditure survey*. UNDP Pacific Centre and Samoa Bureau of Statistics: Suva, Fiji.
- Abbott, D. and F. Nimea, (2008), *Federated States of Micronesia: Analysis of the 2005 household income and expenditure survey*. UNDP Pacific Centre and Government of the Federated States of Micronesia, Office of S.B.O.C, Division of Statistics: Suva, Fiji.
- Abbott, D. and E. Sadang, (2008), *Palau: Analysis of the 2006 household income and expenditure survey*. UNDP Pacific Centre and Palau Office of Planning and Statistics: Suva, Fiji.
- Abbott, D. and H. N. Teewe, (2010), *Kiribati: Analysis of the 2006 household income and expenditure survey*. UNDP Pacific Centre and Kiribati National Statistics Office: Suva, Fiji.
- Asian Development Bank, (2011), *Statistical Database System Online*. Available at <https://sdbas.adb.org/sdbas/index.jsp>. Accessed October 2011.
- AusAID, (2010), Australia's Framework for Law and Justice Engagement with the Pacific.
- AusAID, (2011), Office of Development Effectiveness: Discussion Paper (August 2011): Emerging Findings from the ODE Law and Justice Evaluation By Marcus Cox, Emele Duituturaga and Eric Scheye
- Cook Islands Statistics Office. 2012. *Cook Islands census of population and dwellings 2011: Preliminary Report*. Avarua: Government of Cook Islands.
- Department of Foreign Affairs and Trade, 2012. Country Profiles. The Australian Government at: <http://www.dfat.gov.au/geo/index.html>
- Fourth high-level forum on aid effectiveness, Busan, Republic of Korea 1 December 2011 at www.busanhl4.org
- FSM Office of Statistics, Budget and Economic Management. 2008. Statistical yearbook: Federated States of Micronesia. Palikir: Government of the Federated States of Micronesia.
- Ministry of Finance and Planning. (2010). *2nd National Millennium Development Goals Report: Tonga*. Government of Tonga: Nuku'aLofa.
- Niue Economics, Planning, Development and Statistics Unit. 2008. Niue population profile: Based on 2006 census of population and housing. New Caledonia: Secretariat of the Pacific Community.
- Pacific Islands Forum Secretariat, (2012) *2012 Pacific Regional MDGs Tracking Report*, Suva, Fiji.
- Population Reference Bureau, (2011), *2011 World Population Data Sheet: The World at 7 Billion*. Available at www.prb.org. Accessed February 2012.
- Palau Government Registry, (2010), *Judicial Fee Schedule (as of 10/04/2010)*. Available at <http://www.palau.gov.net/judiciary/JudicialFees.pdf>. Accessed November 2011.
- Papua New Guinea. Law and Justice Sector Secretariat (LJSS) Annual Performance Report for 2011
- Robertson, K, (2011), *HIES 2010 Poverty Analysis*. MCA (Vanuatu). Republic of Vanuatu Courts Act (Cap.122): Civil Procedures Rules No. 49 of 2002, Schedule 1.
- Samoa Bureau of Statistics. 2012. 2011 population and housing census analytical report. Apia: Government of Samoa.
- Samoa Supreme Court (Fees and Costs) Rules 1971 Schedule 1.

- Statistics New Zealand. 2011. Final count for the 2011 Tokelau census of population and dwellings. Wellington: Statistics New Zealand.
- Supreme Court Registry (PNG), (2011), *Supreme and National Court of Papua New Guinea: Fees*. Government of Papua New Guinea. Available at <http://www.pngjudiciary.gov.pg/www/html/59-fees.asp>. Accessed November 2011.
- Tonga Department of Statistics. 2011. Tonga national population and housing census 2011: Preliminary result. Nuku'alofa: Government of Tonga.
- UN Data. 2012. Country Profiles. World Statistics Pocketbook. UN Statistics Division. Available at: <http://data.un.org/Default.aspx>.
- UNDP, (2010). *Human Development Report 2010: The real wealth of nations: Pathways to human development*. New York: UNDP, UN.
- UNDP Pacific Centre series Analysis of Household Income and Expenditure Surveys under the Poverty and Social Impact Assessment Initiatives (PISA).
- UNICEF. 2012. East Asia and the Pacific Country Profiles. Available at: <http://www.unicef.org/infobycountry/eastasia.html>.
- UNICEF, (2009) Child Protection Baseline Research Report: Kiribati
- UNICEF, (2009) Child Protection Baseline Research Report: Solomon Islands
- UNICEF, (2009) Child Protection Baseline Research Report: Vanuatu
- UNICEF, (2013) Child Protection Baseline Research Report: Palau
- UNICEF, (2013) Child Protection Baseline Research Report: Republic of the Marshall Islands
- Vanuatu National Statistics Office. *HIES 2006 Report on the Estimation of the Basic Needs Poverty Line and the Incidence and Characteristics of Poverty in Vanuatu*.
- World Bank Group, (2011), *GNI per capita, Atlas Method (current \$US)*, The World Bank. Available at <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>. Accessed October 2011.
- World Bank Group, (2010), *Papua New Guinea: Poverty Assessment*. The World Bank.
- World Bank Group, 2012. *GNI per capita, Atlas Method (current \$US)*. The World Bank. Available at: <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>.
- Wright-Koteka, E. 2009. National Millennium Development Goals Report: Cook Islands. Office of the Prime Minister and UNDP Pacific Centre: 16.





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