




Pacific Judicial Development Programme

ACCESS TO JUSTICE ASSESSMENT TOOLKIT

September 2014





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Toolkits are evolving and changes may be made in future versions. For the latest version of the Toolkits refer to the website - <http://www.fedcourt.gov.au/pjdp/pjdp-toolkits>.

Note: While every effort has been made to produce informative and educative tools, the applicability of these may vary depending on country and regional circumstances.

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PJDP TOOLKITS

Introduction

For over a decade, the Pacific Judicial Development Programme (PJDP) has supported a range of judicial and court development activities in partner courts across the Pacific. These activities have focused on regional judicial leadership meetings and networks, capacity-building and training, and pilot projects to address the local needs of courts in Pacific Island Countries (PICs).

Toolkits

Since mid-2013, PJDP has launched a collection of toolkits for the ongoing development of courts in the region. These toolkits aim to support partner courts to implement their development activities at the local level by providing information and practical guidance on what to do. These toolkits include:

- Judges' Orientation Toolkit
- Annual Court Reporting Toolkit
- Toolkit for Review of Guidance on Judicial Conduct
- National Judicial Development Committee Toolkit
- Family Violence and Youth Justice Project Workshop Toolkit
- Time Goals Toolkit
- ***Access to Justice Assessment Toolkit***
- Trainer's Toolkit: Designing, Delivering and Evaluating Training Programs

These toolkits are designed to support change by promoting the local use, management, ownership and sustainability of judicial development in PICs across the region. By developing and making available these resources, PJDP aims to build local capacity to enable partner courts to address local needs and reduce reliance on external donor and adviser support.

Use and support

These toolkits are available on-line for the use of partner courts at <http://www.fedcourt.gov.au/pjdp/pjdp-toolkits> . We hope that partner courts will use these toolkits as / when required. Should you need any additional assistance, please contact us at: pjdp@fedcourt.gov.au

Your feedback

We also invite partner courts to provide feedback and suggestions for continual improvement.

Dr. Livingston Armytage
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ABBREVIATIONS

ADB	-	Asian Development Bank
EPPSO	-	Economic Policy, Planning & Statistics Office
FGDs	-	Focus Group Discussions
HIES	-	Household Income and Expenditure Survey
MFAT	-	New Zealand Ministry of Foreign Affairs and Trade
NGO	-	Non-Government Organisation
NSW LJF	-	New South Wales Law Justice Foundation
PIC	-	Pacific Island Country
PJDP	-	Pacific Judicial Development Programme ('Programme')
PNG	-	Papua New Guinea
RAMSI	-	Regional Assistance Mission to Solomon Islands
UNDP	-	United Nations Development Programme
UNIFEM	-	United Nations Development Fund for Women

1 INTRODUCTION

1.1 WHAT IS AN ACCESS TO JUSTICE ASSESSMENT?

An Access to Justice Assessment is a tool that can assist courts in planning their work, allocating resources and responding to community concerns. It can assist the court to improve service delivery by identifying justice needs within a particular country. Access to Justice Assessments provides people with an opportunity to give feedback on their justice needs and how justice sector agencies are addressing those needs. They also provide courts, including island courts, and other justice sector agencies with an opportunity to collect this feedback and plan taking the views of users and potential users into consideration.

The key aspect of Access to Justice Assessments is not that they are conducted but how the findings are used. A court needs to be committed to implementing the assessment and using the findings for these assessments to add value.

This toolkit recommends:

- as a pilot, courts that use the toolkit should pro-actively seek to address at least 2-3 concrete needs identified through Access to Justice Assessments;
- Courts undertake some form of assessment on a routine basis to measure performance in addition to identifying emerging needs; and
- Courts provide information publicly on steps the courts will take to address identified need. This process is important in building confidence in the judicial system.

There are numerous approaches to conducting Access to Justice Assessments. Which approach to take will vary from country to country. It is recommended that a simplified approach is initially adopted in the Pacific. This involves conducting a series of Stakeholder Focus Group Discussions. This can be scaled up depending on the results.

i. Stakeholder Focus Group Discussions

A first step is to undertake routine Stakeholder Focus Group Discussions to receive feedback on court service delivery and broader justice needs. The toolkit provides detailed information for conducting these discussions with different key interest groups.

ii. Access to Justice Surveys

Some courts may wish to go further to conduct Access to Justice surveys to provide more detailed and authoritative information. The toolkit provides some initial guidance on how to conduct Access to Justice surveys.

1.2 WHY CONDUCT AN ACCESS TO JUSTICE ASSESSMENT?

“(Access to Justice) tools can help to determine whether access to justice problems are serious enough to warrant action. If the tools are sufficiently precise, these can also provide feed-back on the type of action that is likely to be successful.”¹

The Access to Justice Assessment toolkit will enable courts to identify, on a routine basis, justice needs and issues of concern for the citizens. This information is important for courts in planning processes, improving service delivery and making decisions on prioritisation of resources. Assessments also allow courts to

¹ Barendrecht *et al* “How to Measure the Price and Quality of Access to Justice” in Social Science Research Network, Nov 2006 <<http://ssrn.com/abstract=949209>> accessed 19 May, 2012 at p19.

identify the needs of particularly marginalized or vulnerable members of the community. Targeting these groups should be a key component of any access to justice assessment. Finally, listening to people's views can increase confidence in a justice system. It tells community members that institutions are responsive and making an effort.

Implementing the toolkit will assist courts:

Assessments provide courts with important information including:

- what categories of people are using courts and for what types of cases;
- what factors influence the ability of people to access courts or restrict access to courts;
- are there particular groups of people with more difficulty in using court services;
- what categories of people are not using courts and why;
- if people are not using courts what other mechanisms (if any) are they using;
- how people perceive the delivery of court services; and
- how people access and use information.

i. Strengthen current Court services:

The toolkit enables courts to ask stakeholders a range of questions on court service delivery. Of particular relevance for courts in the Pacific, it enables courts to collect information on service delivery of lower level courts, such as island courts.

ii. Identify needs that should be addressed but are currently not addressed:

Across the Pacific, as in many other jurisdictions, there are numerous justice needs that never reach the courts. Access to justice assessments provide courts with a means of identifying what those justice needs are, which are of most concern and which may require additional services or changes in current practices from the courts.

iii. Document Progress:

If conducted on a routine basis, the information that is collected can document progress on specific issues. This information is particularly useful for annual reporting purposes and for making representations to Government or donors for additional resources.

iv. Encourage other justice sector agencies to address needs:

By undertaking Access to Justice assessments and acting on the findings, courts can, over the longer-term, encourage other justice sector agencies to adopt a similar approach to service delivery.

Examples of areas where Access to Justice Assessments can assist courts:

- Inform the drafting of strategic plans;
- Identify needs for training and assist design of training programs;
- Identify types of information public require from courts;
- Identify best approach to providing information;
- Prioritise resources allocated to different services delivered by courts;
- Suggest changes to court rules or procedures that may assist public;
- Strengthen annual reporting;
- Improve design and targeting of donor programs.

1.3 WHO SHOULD BE INVOLVED IN IMPLEMENTING ACCESS TO JUSTICE ASSESSMENTS?

As the Pacific Judicial Development Programme (PJDP) is focused on the needs of judiciaries, the primary users of this toolkit are judges and court staff of judiciaries across the Pacific.

- i. *Chief Justices* and *senior members of the judiciary* need to have active ownership of the Assessment process. This will ensure that findings are implemented.
- ii. *Court registrars* and *staff* need to be involved in the design and implementation of the toolkit.

- iii. *Judges from lower-level courts*, including *lay judges*, should be made familiar with the objectives of the assessment. They should understand that the assessment aims to strengthen service delivery rather than evaluate performance.

A secondary audience exists for the results of Access to Justice Assessments.

- **Government & Policy Makers:** Findings can often be useful in influencing policy makers, such as officials with responsibility for justice sector budgets.
- **Other Justice Sector Agencies**, such as the police, prosecutors and lawyers associations, will be interested in the results of access to justice assessments. The toolkit itself may also be of relevance for these actors.
- **Civil Society Organisations** will be interested in the results. In a number of countries, civil society organisations also play an active role in implementing access to justice assessments.
- **Donors** have an interest in the results of Access to Justice Assessments. Assessments can be important tools in identifying and negotiating priorities with donors or advocating for additional resources.

1.4 THE CONTENTS OF THIS TOOLKIT

The toolkit is structured as follows:

Section 2 of this toolkit outlines options for the substantive issues these assessments can possibly cover. These substantive areas will differ from country to country depending on the needs of each country.

Section 3 describes the steps involved in planning, implementing and analysing the results of Stakeholder Focus Group Discussions. This covers:

- Objective of Stakeholder Focus Group Discussions
- What are Stakeholder Focus Group Discussions
- Identifying issues for discussion
- Identifying appropriate stakeholders
- Who to Involve - Court Staff and Resources Required
- Preparing the Discussion and Drafting a questionnaire
- Conducting Focus Group Discussions
- Documenting and Using Findings

Section 4 provides some information on developing Access to Justice Surveys. The section covers:

- What is an Access to Justice survey?
- Approaches to Conducting an Access to Justice Survey
- Planning and Implementing an Access to Justice Survey
- Using the Findings of an Access to Justice Survey

Section 5 provides guidance on how to ensure findings from Access to Justice Assessments are implemented.

2 WHAT SUBSTANTIVE AREAS SHOULD ACCESS TO JUSTICE ASSESSMENTS COVER?

2.1 THE SUBSTANTIVE AREAS

The specific areas that access to justice assessments cover will vary from country to country depending on the local context. Assessments can be designed to cover just about any justice or court-related issue. This section lays out the potential range of issues that assessments generally are used for and provides a brief description of how each issue can benefit the work of courts.

Substantive Issue	Description	Example of Information that can be Collected
1. Personal, or socio-demographic Information	<p>Socio-demographic information captures data on social and economic conditions in the population. This allows the court to identify whether there are issues that affect specific groups of people.</p> <p>Many countries will have some form of social or economic survey that can be used to determine what socio-demographic information should be collected. Court assessments should attempt to use similar types of categories. This allows courts to compare data when the assessments are complete.</p>	<ul style="list-style-type: none"> • Age of respondents; • Ethnicity, origin of respondents; • Level of education; • Gender, marriage status, family size; • Economic & employment status including housing.
2. Legal Awareness & Access to Information	<p>This can include two types of questions.</p> <p>First, questions can be asked about people's level of understanding about the legal system. This normally focuses on whether people know and understand their rights. This helps courts determine whether problems accessing the legal system are related to knowledge or the services provided.</p> <p>Second, questions can be asked about where people obtain information and the type of information people need. The information helps courts identify the subjects people need legal information on and the best methods for sharing information.</p>	<ul style="list-style-type: none"> • Familiarity with particular laws; • Familiarity with specific rights; • Knowledge of functions of justice institutions; • Sources of information on legal issues; • Type of information that is most useful; • Method of receiving information that is most effective.



Substantive Issue	Description	Example of Information that can be Collected
3. Access to Legal Services	This can include questions about access to legal aid, lawyers or police/courts. This type of information is especially useful where a large proportion of the population lives in remote or non-urban areas. It can also include information on costs of services, access to court fee waivers and frequency of circuit courts.	<ul style="list-style-type: none"> • Awareness of and access to legal aid; • Costs / barriers in accessing legal services; • Quality of services provided by courts, police, prosecutors... • Access to court fee waivers and other court services; • Access to circuit courts.
4. Actual Experiences / Disputes / Criminal Disputes	<p>Assessments can ask people about their experience in actual disputes. This information is useful because it is based on actual experience rather than knowledge or perceptions.</p> <p>As will be discussed below, in small jurisdictions it is more appropriate to collect this information in surveys than through focus group discussions. Disputes are very personal and as a result questions need to be phrased carefully to make sure the respondent is comfortable in answering.</p>	<ul style="list-style-type: none"> • Proportion of people who experience cases; • Most common types of cases; • impact of cases on lives of respondents; • institutions responsible for resolving cases (formal or local); • what factors affect how people resolve cases; • types of cases that need special attention or oversight; • People's perceptions on effectiveness of different systems; • How customary systems or local courts are functioning.
5. Confidence in Local and State Actors	Many assessments include a range of questions to examine the degree of confidence in actors involved in dispute resolution. This includes satisfaction with the services of courts, prosecutors, police and lawyers. It also includes local actors such as customary and religious leaders. Responses to these questions can assist courts in prioritising training and capacity building assistance. Most of these questions are based on perception of respondents.	<ul style="list-style-type: none"> • Perceptions of justice sector and local actors; • Preferred actors in resolving disputes; • Awareness of and confidence in local level courts; • Likelihood of being asked for bribes or additional payments.
6. Land	There are a range of questions that can be asked in relation to land. The types of questions that are asked will change depending on the type of land issues in each country.	<ul style="list-style-type: none"> • Status of land people live on (own, rent, right of abode, no right); • Types of disputes relating to land use; • Differences in dispute resolution processes depending on land ownership or socio-economic status of parties; • Differences between urban and rural areas; • Functioning of land tribunals or local mechanisms.



Substantive Issue	Description	Example of Information that can be Collected
7. Safety and Security / Social Order	<p>Issues of public safety and law and order can be examined in a number of ways through access to justice assessments. This can involve asking about actual experiences, perceptions or confidence. Information on sentencing and the criminal justice system can also be examined.</p> <p>Some countries in the Pacific already undertake assessments that deal with these issues. This includes the Solomon Island's annual "People's Survey" and Community Crime Victimization surveys conducted by the police in PNG.</p>	<ul style="list-style-type: none"> • Confidence in safety and responsiveness of law enforcement; • Approaches to dealing with criminal activity; • Type of criminal activity of most concern to respondents; • Perceptions of court handling of criminal activity; • Effectiveness of different sentencing mechanisms and role of different actors in addressing crime; • Perceptions on potential role of alternative/community sentencing.
8. Family Law	<p>There are a range of issues that can be examined in relation to family law. These include issues relating to marriage and divorce, adoption, custody and child support. They can also cover issues relating to inheritance.</p> <p>It is quite common for family law issues to also be integrated into questions on other substantive issues, in particular gender and legal identification (for issues relating to birth certificates and adoption).</p>	<ul style="list-style-type: none"> • Levels of adoption (traditional and formal) in a community; • Approaches to registering adoption; • Approaches to resolving marital disputes; • Types of child support payment and enforcement; • Formalization of legal documentation (birth, marriage certificates) and consequences.
9. Gender	<p>It is important to examine whether courts treat men and women differently. This can be done in two ways. First, responses to regular questions can be divided by gender and this will identify differences. Second, there are particular issues that require specific attention such as issues relating to domestic violence or family law. Questions can be drafted to address these issues.</p> <p>In the Pacific several gender assessments that include areas covering domestic violence have been conducted, both at a country level and at a regional level. Both UNIFEM and the Government of New Zealand's Police and Domestic Violence program have undertaken assessments.</p>	<ul style="list-style-type: none"> • Whether there are differences in resolving disputes or accessing services based on gender; • Whether there are difference in justice needs based on gender; • types of disputes experienced by women; • Prevalence of violence against women and effectiveness of reporting mechanisms; • Access to services for family law matters.



Substantive Issue	Description	Example of Information that can be Collected
10. Vulnerable Groups	Some countries will have specific vulnerable groups. Examples may include ethnic / religious minorities, youth or disabled people. Access to Justice Assessments are a useful tool to measure how courts and other justice sector actors treat these vulnerable groups or whether these groups have specific needs that are not being addressed.	<ul style="list-style-type: none"> • Whether particular groups experience specific challenges in accessing or using courts; • Differences in preference for using system based on characteristics of particular groups; • Types of legal services that vulnerable groups may need.
11. Access to Official Documentation	In some countries people find it difficult to obtain official or legal documentation such as identification cards, birth or marriage certificates and land title documents. In some countries, courts are responsible for providing these services. These documents are often needed to access government services. Access to Justice Assessments can measure if access to documentation is an issue and particular groups it affects.	<ul style="list-style-type: none"> • Types of legal documentation most in need by population; • Role of courts or other justice sector agencies in providing legal documentation and quality of service; • Impact of not having legal documentation; • Quality of information about legal documentation.
12. Integrity in Government Services & Accountability	<p>In many countries issues of corruption or accountability important. Often these questions are included in a way that measures people's perceptions. That is, people are asked how much confidence they have in different actors. It is also possible to ask people about actual experiences in accessing government services and whether they had to pay additional fees for those services.</p> <p>A number of organisations conduct corruption indexes. For example, Transparency International has undertaken assessments covering several countries in the region.</p>	<ul style="list-style-type: none"> • Perceptions of trust in government and local officials; • Actual experiences in being asked to pay bribes or additional fees.
13. Barriers to Accessing Courts	There may be specific groups of people or types of cases that never make it to court. People may choose to use other actors, such as traditional / local leaders, or do not act on their grievances. It is important for courts to be aware of these cases, so they can determine what additional services, if any, should be provided. Court records will not identify any barriers to accessing courts.	<ul style="list-style-type: none"> • Types of grievances that are not acted on; • Reasons for not acting on grievances; • Consequence of failing to act on grievances; • Cases resolved by traditional/local actors and satisfaction level with resolution.

2.2 DECIDING ON WHICH AREAS TO FOCUS ON

One of the biggest challenges in designing assessments involves deciding on how many issues to focus on and the level of detail for each issue. These decisions are a balancing exercise.

Including more issues in an assessment obviously has the potential to increase the amount of information available. However, this needs to be balanced with the negative consequences of assessments that are overly comprehensive:

- It can significantly increase the amount of time for assessments;
- It can result in a loss in focus of the assessment as it attempts to cover too many areas; and
- It may limit the ability to go into too much detail on specific issues.

It is generally better to cover a smaller number of issues properly rather than a larger number of issues superficially.

Given the range of issues identified above, courts need to think carefully about which issues are of highest priority to include in an assessment.

- It can be useful to consult with other stakeholders in making this decision. This is particular the case because it is important to capture information about issues that are not making their way to court and courts will not always be aware of these issues.
- Similarly, should courts decide to implement access to justice surveys following focus group discussions, the results of those discussions are the perfect tool to define the scope of the survey.

3 STAKEHOLDER FOCUS GROUP DISCUSSIONS

Many courts in the Pacific have not yet been involved in any form of Access to Justice Assessment. An appropriate starting point in this instance is to conduct a range of stakeholder focus group discussions with representatives of different interest groups. This will enable courts to commence engagement on the issue and determine the need for on-going or additional assistance.

This section outlines how to plan, implement and use information gathered from these focus group discussions.

3.1 WHAT ARE STAKEHOLDER FOCUS GROUP DISCUSSIONS?

"A focus group brings together individuals sharing certain key characteristics to discuss a particular topic. A moderator asks the group a set of questions in a conversational manner that allows them to respond to, and elaborate on, the comments of others. This can result in a deeper, more thoughtful discussion than an interview, as the comments of research participants trigger thoughts and ideas among others."²

Stakeholder Focus Group Discussions are meetings (ideally held on a routine basis) with people who represent the views of different groups within the community, including vulnerable groups. The meetings are semi-structured. That is they aim to receive feedback on a range of pre-determined issues but also allow enough flexibility to enable participants to raise other issues.

Feedback should be used by the courts to inform planning processes. This can include identifying priority areas that require attention and developing concrete plans to address those areas.

Stakeholder Focus Group Discussions should be undertaken periodically, for example either every year or in the lead up to preparation of strategic plans. This form of dialogue can be used to discuss progress and build public confidence in courts and justice institutions more broadly. If undertaken periodically, these discussions can also inform the annual reporting processes of courts.

It is important to note that the objective of these discussions is to focus on policy issues and not on the results of individual cases.

3.2 OBJECTIVE OF STAKEHOLDER FOCUS GROUP DISCUSSIONS

It is important for courts to obtain feedback periodically from representatives of the community they represent. This feedback should cover both the quality of services they are providing and whether or not there are areas that should be addressed by courts that are currently not being addressed. That is to say, are there people who face challenges accessing justice?

Focus Group Discussions will assist courts in their planning processes and in determining how to best use their resources. It does this by ensuring community input into these processes, helping to target allocation of resources with identified needs.

² ABA Rule of Law Initiative, "Access to Justice Assessment Tool: A Guide to Analyzing Access to Justice for Civil Society Organizations", New York, 2012.

3.3 HOW TO IDENTIFY ISSUES FOR DISCUSSION?

Section 2 identified the range of issues that courts could potentially examine in Access to Justice Assessments. It is important that assessments remain focused and prioritise some of these issues. Priorities will vary from country to country. A key first step involves deciding on what issues should become the focus of the assessments.

Courts should seek to limit the number of issues to a maximum of 5 specific areas of priority.

There are a number of sources of information courts can use to determine what issues to focus on:

- **Internal Consultations:** This can include discussions with judges and registrars. Reviewing annual reports or trends in cases being filed or pending in court should also assist in determining priorities. Although this is a starting point, priorities identified by courts should be cross-checked with other sources;
- **Informal external consultations:** court staff should seek the views of external observers to either confirm priorities identified by courts or provide alternative priorities. This can include other justice sector agencies, civil society organisations or off the record discussions with journalists.
- **Secondary sources:** a range of secondary sources can also be used to cross-check identified priorities. These can include reports from local organisations like human rights commissions or ombudsman. Other examples include the US State Department annual country assessments or reports from development agencies (eg: UNDP, UNIFEM) or organisations such as Human Rights Watch.

The box below provides an example of how this was done in Tuvalu.

Using initial interviews to define topics to include in an Assessment

The Access to Justice Assessment in Tuvalu started with a series of meetings with stakeholders with an interest in the justice sector. The following categories of people were interviewed:

- Justice Sector Agencies:** courts, People's Lawyer, Attorney General's office, private solicitors;
- Government:** police, local government representatives, members of parliament and Ministry of Home Affairs; and
- Civil Society:** umbrella organisation of NGOs, Tuvalu Family Health Association.

These interviews were used to identify the key topics included in the assessment. Based on discussions with these partners a Focus Group Discussion guide was drafted that included sections on: legal knowledge and access to information; access to legal services (in particular court services); and social order and family law issues.

3.4 IDENTIFYING APPROPRIATE STAKEHOLDERS

The stakeholders to invite for discussions will vary from country to country and will depend also on the priority issues identified. The courts should identify between 3-5 different categories of stakeholders and hold separate focus group discussions for each category of stakeholder.

Potential stakeholders will include the following:

- Representatives from women's interests;
- Representatives from youth interests;
- Customary leaders and/or lay officers from local level courts;
- Religious leaders;
- Representatives from different minority ethnic or religious groups;
- Representatives from rural or remote communities;

- Members of civil society organisations with an interest in justice issues; and
- Representatives from other vulnerable groups such as intellectual or physical disabilities, HIV/AIDS positive, or vulnerable employee groups.

For the reasons discussed in the box above, when a particular target group is identified, it is important to speak to actual members of that group and not only people who represent the group.

Are Representatives really 'Representative'?

In selecting the interest groups you wish to target it is important to be clear about the type of people you wish to receive information from. Sometimes there will be a significant difference in information obtained between an organisation that represents particular groups and people that come directly from that group.

Two examples:

- i. In Tuvalu, we wanted to ask youth about their experiences with the law. This was in particular because people had identified alcohol and related social order problems affecting youth as a significant issue. A discussion was organised with the Tuvalu National Youth Council. All the participants were well educated, to quote one of the participants, 'law-abiding citizens'. They had limited personal experience with courts and as a result were not able to speak on behalf of youth who face difficulties with the law.
- ii. Asking the most marginalized members of a village about their access to legal services is very different to asking a village leader how people in his village access legal services. In some instances the main reason why people do not access legal services is because they are afraid of their village chief. You won't find this out if you only speak to the village chief and assume they speak on behalf of everyone in the village.

3.5 WHO TO INVOLVE – COURT STAFF

The Stakeholder Focus Group Discussion process will require human resource from judges and court staff at three levels:

- i. **Leadership:** ownership and leadership from the most senior members of the judiciary is required. This includes commitment from the Chief Justice and other senior members of the management team. In most cases the Chief Justice or another senior judge, should open focus group discussions.
- ii. **Implementation:** the court will need to dedicate some staff resources to the stakeholder focus group discussion process. Courts can either facilitate focus group discussions themselves or identify a skilled facilitator. Both have advantages and disadvantages. A facilitator from the court will add increased legitimacy to the process. However, people may feel more comfortable speaking to a trained facilitator, especially if providing constructive criticism of the court. If court staff facilitate the discussions this should be done by senior members of the court registry staff. Irrespective, court registry staff will need to be involved in the design and preparation of the focus group discussions.
- iii. **Support:** judicial officers across all levels should be made aware of the process and the objectives of the focus group discussions. It is important to obtain their support for the discussions and also to reassure judicial officers that the purpose is to strengthen service delivery rather than assess the performance of particular judges.

Where possible, judicial officers should not conduct focus group discussions themselves. If judges are involved it will limit the amount of objective feedback from participants on quality of legal services. Participants might also become too focused on individual court cases rather than on broader policy issues. The best practice is for a judge to be present at the opening and introduce the discussion, then leave and allow the participants to continue the discussion with the facilitator.

3.6 PREPARING THE DISCUSSIONS AND DRAFTING A QUESTIONNAIRE

The Stakeholder Focus Group Discussion process involves courts hosting 3-5 detailed discussions with representatives from different interest groups. There are two aspects to this: the substantive content and the logistical arrangements.

3.6.1 Preparing the Substance

Focus Group Discussions are semi-structured discussions. This means that the objective will be to obtain responses across a number of key issues. However, the discussions should be open and should not follow a rigid format.

Prior to the Focus Group Discussions the court will want to draft a broader outline of a questionnaire for the discussions. A draft questionnaire was prepared for the assessment in Tuvalu. It is included as a guide at **Annex 2**.

It is best to test the Questionnaire Guide through several 'pilot' discussions. In Tuvalu, the field guide was tested with discussions with Island Court judges and Land Court judges prior to being used for community consultations. On each occasion it was updated and questions were amended or deleted following the tests.

Testing the Questionnaire Guide also provides the facilitator with an opportunity to become familiar with the approach and the questions they will be asking. This is crucial to ensure the facilitator is comfortable with implementing the Guide.

3.6.2 Preparing the Logistics

A Focus Group Discussion should be held for each Stakeholder Group identified. Ideally, this would bring together representatives from more than one organisation.

The ideal number of participants for each focus group discussion is between 5-10 people. Any more than 10 people and the session will become difficult to facilitate. It will also limit the opportunity for everyone to participate.

Invitations to participants should be sent in advance. The invitation should include some explanation of the objective of the discussion, providing participants with time beforehand to consider the issues and prepare for the meeting.

As Focus Group Discussions will generally last approximately 2-3 hours, they should be held in a location that is comfortable and convenient to the participants. The location should encourage open discussion. In many instances, the court will have facilities that can be used for the discussion. In some countries, where budgets exist, it will be more appropriate to hire seminar or workshop facilities.

The actual resource costs involved in hosting the focus group discussions will vary depending on the jurisdiction. It may be possible to minimize costs by using court facilities. Costs involved could include:

- Hire of seminar / workshop facilities to host focus group discussions;
- Travel or per diem costs for participants involved in the discussions, although this is not generally recommended as it creates an incentive for groups to participate; and
- In some instances it may be useful to recruit a consultant to assist in the facilitation of the focus group discussions.

Compensating Participants?

Should participants be paid? Providing payments to participants has two negative aspects. First, it affects objectiveness. They are more likely to provide answers the facilitator is after because they are receiving remuneration. Second, it can lead to expectations that programmes should only operate if they are associated with payments. This reduces community commitment to the results.

On the other hand, there is a need to acknowledge that people are taking time out of their busy schedules to participate. In some countries in the region, it has also become common practise to provide allowances for participation.

This issue arose in the course of organising Focus Group Discussions (FGDs) in Tuvalu. For meetings with Island Court and Land Court judges it was agreed that they would be reimbursed equivalent to their sitting fees. For FGDs with community groups a contribution was made to the community group organisation. Another preferred approach is to provide an allocation for lunch and a transport allowance if required. This can be done in recognition of their participation in the meeting.

3.7 CONDUCTING THE FOCUS GROUP DISCUSSION

The agenda should include the following aspects:

- i. An opening by either the Chief Justice or a senior judge explaining the purpose of the Focus Group Discussions;
- ii. An introductory session that allows participants to introduce themselves and make preliminary opening comments;
- iii. Facilitated questioning across the key priority areas identified by the Court;
- iv. An opportunity for participants to raise issues that may not have been covered; and
- v. Closing remarks including summary on how information will be used.

At least two court staff will be required to participate through the whole Focus Group Discussion: a facilitator and a note-taker. Focus Group Discussions will ideally be no shorter than 1 hour and no longer than 3 hours. In Tuvalu, 2 hours was allocated for each Focus Group Discussion.

It is important to try and encourage all participants to share their opinions throughout the session. The facilitator plays an important role in providing everyone with an opportunity to contribute equally.

It is important also to ensure that the discussion does not become focused on individual cases. It is fine to use cases as an example of particular issues. However, the Focus Group Discussions cannot review case decisions or assess performance on particular cases. It is important to emphasize this at the beginning of the session and to remind participants if too much time is spent discussing individual cases.

Tips for Conducting Successful Focus Group Discussions

There are a number of useful tricks to facilitating Focus Group Discussions. Facilitators should:

- i. Be well prepared and familiar with the questionnaire. This encourages a more free flowing conversation;
- ii. Encourage an open conversation. This includes ensuring a comfortable setting and also opening the discussion in a way that encourages informality and a relaxed atmosphere;
- iii. View the questionnaire as a tool that is not set in stone. Flexibility is required, allowing the conversation to take its course; and
- iv. At the same time, the facilitator needs to balance a listening role with a guiding role. If a few people are dominating the conversation or too much time is spent on certain issues the facilitator needs to take control of the discussion and guide it forward.

It can be useful to set guidelines at the beginning of the conversation. In Tuvalu the following guidelines were introduced to participants:

- i. The FGD aimed to receive feedback on different issues, NOT to discuss the merits of individual cases;
- ii. Everyone was encouraged to participate and have an equal say;
- iii. The information would be treated in confidence. Notes were taken but names would not be used in reports; and
- iv. There were no right or wrong answers. Everyone's views are equally important and should be respected.

Finally, the process of conducting a Focus Group Discussion can also be a useful exercise for educating the public about the work of the judiciary. Experience from Tuvalu, as shown in the box below, highlighted that people are keen to obtain more information on the court system and used the focus group discussions to raise their own questions.

Two-Way Sharing of Information in Tuvalu

In February 2013, a Focus Group Discussion was held with community members from a village at the northern end of Funafuti. Thirteen people turned up to the discussion, held in the church.

As the facilitator worked his way through the questions, the participants were keen to ask a few themselves. A lady wanted to know how a case involving reckless driving causing death did not go to court and was asking if it was now possible to negotiate resolutions to these cases. A man asked for an explanation of the difference between the Island Court and the Land Court. Another woman had a few questions to ask about the adoption process.

The difficulty comes in trying to balance these general questions with specific advice about particular cases. At the close of the discussion, one of the participants used the opportunity to seek advice on a land case, involving payment of rent for the land the church was on.

3.8 DOCUMENTING FINDINGS

Detailed notes should be made for each of the Focus Group Discussions. Notes should preferably be typed and saved accordingly so they can be referred to again in the future.

At the completion of all of the Focus Group Discussions, it will be necessary to compare the findings from each discussion. Courts should document these in the form of a summary report that can be circulated for comment within the court. Some courts may also feel comfortable sharing this summary with the groups who participated in the Stakeholder Focus Group Discussion.

4 ACCESS TO JUSTICE SURVEYS

This section will describe the benefits of Access to Justice surveys and provide some introductory comments on planning and conducting Access to Justice surveys. The section covers the following areas:

- What is an Access to Justice survey?
- What Approaches exist to conducting surveys
- Planning and Implementing an Access to Justice survey

The section will use several examples of surveys that have been conducted in the region to guide this discussion.

4.1 WHAT IS AN ACCESS TO JUSTICE SURVEY?

An Access to Justice survey collects information from a broad range of respondents to assist justice sector agencies plan and deliver their services based on actual need.

The most rigorous (and expensive) type of survey is a randomly selected, representative sample of the population based on a mathematical formula. The information obtained can then be viewed as being representative of the population. Other survey approaches randomly select respondents from the population or target groups. These approaches also provide important information, often at a much cheaper cost.

As opposed to Focus Group Discussions, a survey is generally quantitative in nature. Information that is collected is in response to fixed questions. In most cases, respondents will need to choose responses from a number of possible options. This allows the responses to be compiled and provides an overall picture. If the survey is broad enough it also allows for responses to be compared between different groups of people. This can be particularly important because it highlights areas where people may be missing out on justice services.

Strengths and Weaknesses of Access to Justice Surveys

Access to Justice surveys are not recommended for all countries in the Pacific. The list below identifies some benefits and weaknesses of using a survey-type approach.

Benefits

- Greater ability to capture views of broad section of population, including marginalised groups;
- Allows for analysis between groups or types of users;
- More empirically rigorous – provides more reliable data;
- Can allow for cross-reference to broader data sources; and
- Provides data on a broad range of issues.

Weaknesses

- Is expensive and time consuming to implement;
- Requires specialized expertise and detailed attention in designing tools;
- Doesn't explain *why* particular findings occur, only documents that they do occur;
- Interpretation of results subject to bias; and
- To be representative in small populations requires a large sample, in proportion to population size.

4.2 APPROACHES TO CONDUCTING ACCESS TO JUSTICE SURVEYS

There are a broad range of options available for conducting Access to Justice surveys. This toolkit outlines three categories of approaches that have been taken and includes examples for each category. More detailed information about the different tools available, along with links to examples mentioned below, are provided in the Annexes.

4.2.1 Inclusion of Justice Issues in Broader Social / Economic Surveys

There are a number of examples, including examples in the region, where access to justice issues have been covered in broader social or economic surveys. Governments, often with the support of donors, conduct household surveys to measure progress on economic and/or social indicators. Over the last decade, the surveys are increasingly including sections that cover dispute resolution, access to legal services or related issues. The box below provides three examples:

Three Examples of Justice Issues Covered by Broader Surveys:

i. Papua New Guinea's Household Income & Expenditure Survey (HIES), 2009

In 2009, PNG's National Statistical Office conducted a nation-wide HIES Survey, with support from the World Bank. This survey is statistically representative of the population. The substantive part of the survey covered 10 sections including: income and expenditure, access to health and education and housing. One section was focused on dispute resolution. The section asked respondents to identify (against a list) actual disputes experienced in the past 12 months, who was involved in the dispute and its impact. Respondents were asked more detailed questions on the most serious dispute they had experienced. This included: who they asked for advice (and why), how they sought to resolve the dispute, the cost of resolution and their satisfaction with the resolution process.

ii. People's Survey in Solomon Islands, 2011

Introduced under RAMSI's engagement in Solomon Islands, the People's Survey is an annual stocktake of progress across a range of issues. The 2011 survey gathered people's perceptions on a range of economic, public service delivery, governance and law and justice issues. Of the 9 substantive sections in 2011, two focused specifically on justice issues: Section D (Safety) and Section I (Resolution of Disputes). Topics include perceptions of justice sector actors; causes of conflict; frequency of disputes; dispute resolution processes; and costs of resolving disputes. The survey uses both quantitative and qualitative tools. It gathers data primarily on perceptions rather than actual experience (with the exception of several questions on disputes in Section I). The survey is driven by RAMSI and it is unclear to what extent Justice Sector agencies use the results.

iii. Demographic & Health Survey, Marshall Islands, 2007

The Republic of Marshall Islands was one of four countries to conduct comprehensive demographic and health surveys in the Pacific in 2007. The surveys were supported by ADB. In the Marshall Islands the Government's Economic Policy, Planning & Statistics Office (EPPSO) implemented the survey. The survey was quantitative with a sample representative of the population. It included a specific section on domestic violence. Data collected provides detailed information on prevalence of domestic violence, factors associated with domestic violence and reporting options available.

As the examples above indicate, one of the challenges with sections included in broader surveys is that it reduces ownership. On justice issues, for example, courts would be less involved in the design of the survey and, as a result, less interested in the results. All of the surveys above are implemented and the results analysed by agencies outside of the justice sector. A consequence of this is that courts, and other justice sector agencies, are less involved in the design and less committed to implementing the findings.

4.2.2 Justice Sector-Wide Surveys

A number of countries undertake Access to Justice surveys at a sector-wide level. The surveys frequently cover a broad range of topics with the results of interest to the judiciary, other justice sector agencies, civil society and the legal profession more broadly. These forms of surveys are becoming increasingly common.

In the United States, the United Kingdom and Australia, sector-wide Access to Justice assessments are normally carried out by civil society organisations. The results are presented as recommendations to courts and other justice sector agencies. The box below describes the recently launched “Legal Need in Australia” survey conducted by the New South Wales Law and Justice Foundation (LJF).

Legal Australia-Wide Survey: Legal Need in Australia, 2012

In 2012, the NSW LJF published its report on legal needs in Australia. The report draws on telephone interviews with over 20,000 respondents. Results are representative for each state. Respondents were asked about their experiences relating to 129 different types of legal problems across 12 broad categories. In addition, information on the characteristics of legal problems and demographic information was collected. The demographic information allows the report to make findings specific to the needs of particular groups. Those with the most significant needs were: people with a disability, indigenous people, the unemployed, single parents, people living in disadvantaged housing and people living primarily on government payments.

The reports main key finding was the important link between legal problems and non-legal needs. This led to recommendations to increase distribution of legal information through non-legal service providers (e.g. health, welfare, housing) and to ensure legal service providers can better advise clients about other non-legal services available, including through stronger coordination between legal agencies and other human service providers.

There are numerous examples of justice-sector wide surveys conducted in developing countries, including a wide range of Access to Justice surveys. Most of these surveys are conducted for donor agencies and the findings are generally used to design donor programs. A UNDP review of 23 Access to Justice assessments that it has supported in the Asia-Pacific region, documents examples of some of these surveys. To date, none of these assessments have been conducted in countries in the Pacific.

4.2.3 Surveys focusing on Specific Issues

The final approach is to conduct surveys focusing on specific issues. There are numerous examples of this type of approach, including several from the Pacific. The Pacific surveys have been implemented by other justice sector agencies. Examples include the series of “Community Crime Victimization Surveys” conducted by the police in urban centres in PNG and discussed in the box below.

Lae Urban Community Crime Victimization Survey, 2010

The PNG Government’s Law and Justice Sector Secretariat conducted a survey on community perceptions of crime and the level, extent and type of crime in the urban centre of Lae in 2010. This included data on community views about justice sector agencies. 382 respondents were selected using the 2000 Census and previous surveys to ensure different urban areas and age-brackets were covered. Survey results showed an increase in crime across most of the categories covered.

This was the third time the survey was done in Lae. Surveys are also used in Kokopo and National Capital District. This allows the Government to compare results over time and to allocate resources to each of the areas and design strategies to target specific types of crime based on identified need.

There are very few examples of courts using targeted surveys to support their activities in the Pacific. A very small pilot was developed and tested under PJDP in the Marshall Islands in 2011. The box below describes that experience.

Piloting an Access to Justice Survey in the Marshall Islands

As part of research conducted under Phase 1 of PJDP a small survey was designed and tested in Majuro, Marshall Islands. The survey was divided into three sections: (i) demographic information; (ii) legal knowledge and access to information; and (iii) experience of actual disputes. The survey questions were designed following interviews with a number of stakeholders and incorporated requests from the judiciary to examine issues relating to land disputes. The survey was implemented primarily by a clerk of the court in Marshallese with assistance from the adviser. Respondents were selected randomly from three geographic locations in Majuro representing different socio-economic characteristics.

Several interesting findings arose from the survey. Over 60% of households who responded had no formal right to land they lived on. They were living on land at the invitation of the formal landowners and if they experienced disputes would have limited ability to bring their dispute to court. This confirmed other research on socio-economic issues in urban areas of the Marshall Islands. The main type of disputes experienced by respondents were, equally, fighting, land, domestic violence and debt problems and a number of these disputes remained unresolved or the respondents did not follow up on complaints. Respondents identified information on family issues (e.g. adoption, divorce) as being their primary need followed by land and crime. Community leaders and the radio were identified as the most effective means of distributing information.

4.3 PLANNING AND IMPLEMENTING AN ACCESS TO JUSTICE SURVEY – ISSUES FOR CONSIDERATION

Implementing an Access to Justice survey can be a complex undertaking. In most cases it will involve significant effort and, depending on the method adopted, financial commitment. For this reason, it is crucial upfront to determine the aim of the survey. All other aspects of preparing and conducting a survey will be influenced by the aim. This section will outline some of the issues involved in planning and implementing an Access to Justice survey.

4.3.1 Defining the Purpose of an Access to Justice Survey

Access to Justice surveys can address a number of purposes for courts. For example, they can provide courts with an overall picture of service delivery and issues faced by people in accessing courts. Partnering with other justice sector agencies, they can identify key access to justice issues more broadly. They can also focus on specific issues or groups of people and assist courts in developing relevant policies to address those issues.

Initial Access to Justice surveys are generally undertaken at a sector-wide level. This allows courts to obtain an overall picture of how people view the justice system and justice needs. It also ensures that areas are not overlooked purely because questions were not asked in relation to those areas. In countries where donors support these surveys, donors also prefer overall surveys because these can be used to assist in identifying areas of support for donor programs.

Courts may wish to focus surveys on specific issues or groups of people. This approach is generally undertaken either where there are specific, identifiable issues that need to be addressed or there are donors or civil society organisations with a specific focus willing to support the court's work.

Where courts undertake Stakeholder Focus Group Discussions as a first step this will assist in both determining if they need to undertake broader Access to Justice surveys and identifying the focus of those surveys.

4.3.2 Defining the Survey Method

Defining the survey method will often depend on two main factors. First, the purpose of the survey will determine what type of survey needs to be implemented. Second, the budget available will also affect the approach that is taken.

Surveys that are representative of the population at large or specific geographic or socio-economic groups, will provide the most accurate data and be most influential. However, implementing these surveys requires specific technical expertise. These types of surveys are also generally expensive and there are limited organisations in the Pacific with experience in undertaking these types of surveys.

Courts may wish to start with more targeted or less statistically valid surveys that provide a snapshot of the population without being definitive.

4.3.3 Resourcing an Access to Justice Survey

As has been noted above, implementing Access to Justice surveys, depending on the approach taken, can be expensive exercises. Courts will rarely have the technical capacity in-house to undertake the surveys and as a result will need to seek assistance from external parties.

A starting point for seeking information on surveys may be to contact government departments that frequently undertake surveys (eg: departments responsible for statistics or research) or university faculties with experience in this area.

As has been noted above, it may be possible to 'piggy back' on surveys that are already planned on other issues. This means, that modules on access to justice would then be added to survey questionnaires that cover a broader range of issues. This approach can be effective for a number of reasons. It means that costs can be shared between a number of parties. It also means that the court can draw on the technical expertise of other actors in developing and implementing surveys. It does however, limit ownership of the court in conducting the surveys and means that the court is dependent on other actors for timing and content.

For countries with significant donor activity, it may be possible to engage donors to support implementation of surveys. Donors are progressively seeking to develop and monitor programs based on a more reliable evidence base. Quantifiable analysis in the form of survey results can provide this evidence base and as a result donors may be interested in supporting these kinds of research. Donors already support access to justice surveys in the Solomon Islands (through the *People's Survey*) and in Papua New Guinea (where a dispute resolution section exists in a World Bank supported Households Income and Expenditure Survey).

4.3.4 Drafting a Survey Questionnaire

It is important to emphasize several key issues when designing a survey.

First, surveys must be developed to respond to the local context. This means both asking questions in a culturally appropriate manner and ensuring the substance is applicable to the local context. Generally the starting point for developing surveys is to look at other examples. There are benefits in ensuring consistency across countries because it means results can be compared. However, this must be

balanced with ensuring appropriateness in the local context. For this reason surveys must be field tested prior to implementation.

Examples of Access to Justice Surveys

Full copies of the following survey questionnaires are provided in the Annex:

- i. **Marshall Islands Judiciary 'pilot' survey PJDP:** this survey questionnaire was designed specifically for the High Court of the Republic of the Marshall Islands in relation to the PJDP Customary Dispute Resolution Research.
- ii. **People's Survey, the Solomon Islands:** this survey provides an example of access to justice and dispute resolution questions inserted into a broader governance survey questionnaire.
- iii. **Household Income and Expenditure Survey, PNG:** this survey provides an example of dispute resolution sections inserted into a broader socio-economic survey questionnaire.
- iv. **Legal Knowledge, Attitudes and Perceptions Survey, Open Society Justice Initiative:** this survey is a civil society designed survey for measuring access to justice from a community perspective.

Second, it is a constant balancing act between wanting to gather as much information as possible and ensuring that the surveys are easy to administer. Larger scale quantitative surveys can take as long as 2-3 hours to administer. This places a significant burden on respondents. Except where modules are included in broader surveys, it is good practise to ensure surveys can be completed in between 30-60 minutes by respondents.

Third, people rarely enjoy talking about justice issues. If you are talking to strangers about justice issues they often link this to problems. For this reason, it is crucial that surveys are clearly explained to respondents, that information is kept confidential and that surveys are administered in a comfortable and private environmental. It can also help to commence the survey with less confronting questions prior to discussing issues like actual disputes experienced.

Fourth, it is useful to ensure that accurate socio-demographic data is collected. This allows you to compare data across categories of people when analysing results and identifying trends for specific or vulnerable groups. A good practice is to examine the background questions in other social or economic surveys conducted in your country.

5 USING THE FINDINGS FROM AN ACCESS TO JUSTICE ASSESSMENT

The most crucial element of conducting Access to Justice assessments is ensuring that the findings are used to strengthen judicial processes. This section provides guidance on how courts can use the findings.

To ensure findings are used by courts, senior management within courts need to be committed to the process. This means:

- Management needs to be involved in the design of the assessment and defining the scope of the assessment;
- Progress in conducting the assessment should be reviewed periodically, making changes as required to better suit the needs of courts;
- Courts need to review findings and identify specific, concrete items on which they can act to implement change;
- Information should be disseminated to the public and interested stakeholders on the action items that will be followed up on; and
- Undertaking assessments on a periodic basis allows courts to set benchmarks, monitor progress and explain to constituents what has changed and issues where further change is required.

5.1 WAYS TO USE FINDINGS

Courts should identify a number of concrete issues that arise from assessments that they can seek to address. These areas could include:

- Changes to regulations to improve service delivery or make services more accessible (e.g: reducing fees, providing fee waivers, targeting services for certain groups);
- Improved access to court information (e.g: brochures on specific issues or in different languages, information campaigns through radio or community groups);
- Improved community participation in justice processes (e.g: changes to sentencing to include community mechanisms, increased acknowledge of community mediation);
- Improved support for vulnerable groups (e.g: designating contact people for vulnerable groups, providing information to specifically address their issues, supporting inter-governmental department working panels to overcome issues); and
- Capacity building for key officials (e.g: training for local level courts or non-state mechanisms, improved documentation of local level mechanisms).

Linked specifically to PJDP, areas identified through an Access to Justice assessment could become activities a Court proposes as part of its application for the Responsive Fund. The court would be using the Responsive Fund to directly address needs identified through the assessment.

Best practice would be for the court to develop a plan to address these specific issues or include action in annual planning processes. Announcing the plan publicly or informing the interested stakeholders can have the benefit of encouraging support for the court's work to address the issue. It also builds confidence in the system, as the public sees efforts to improve service delivery.

5.2 USING RESULTS FROM FOCUS GROUP DISCUSSIONS

Once results from Focus Group Discussions have been documented, senior management in courts should meet to analysis the results and develop an action plan that identifies key areas where the court can follow up on results. The best approach is to identify a small number of concrete items where a court can institute changes that respond to the needs identified.

Some action items may require minimal change or can be instituted relatively quickly. There may be other items that require consultation with other key stakeholders including other justice sector agencies or broader social service providers. The findings may also identify more significant issues that require further analysis or on-going assessments.

The Access to Justice Assessment in Tuvalu

An Access to Justice Assessment was conducted in Tuvalu, with fieldwork undertaken in November 2012 and March 2013. The assessment involved an initial round of interviews with approximately 15 key stakeholders. Based on information obtained from those interviews, a Focus Group Discussion guide was developed. In total, 9 focus group discussions were conducted. The focus group discussions involved meetings with 5 representative groups on the main island and 2 discussions each on 2 outer islands. Separate discussions were held with community representatives and magistrates from Island and Land Courts.

The findings identified three main areas of engagement for the Court:

- i. *Engagement with the Public*: the results from the assessment identified a need for more accessible public information on the work of the courts, in particular in relation to jurisdiction of the courts, procedures for adoption, reporting of family violence and social order issues and the role of apologies in court proceedings. The findings also identified radio and brochures as the most suitable means to disseminate information. Finally, there was a need to review procedures for providing support to parties or witnesses in cases with disabilities.
- ii. *Administration of Courts*: the discussions identified areas where further training was required for magistrates. This included training on family law matters, specific aspects relating to land law and documentation of cases in Island and Land Courts. It also included a request to update the judicial bench book.
- iii. *Broader Justice Issues*: a range of broader issues were identified including engaging with traditional leaders and providing additional information on the work of the Peoples' Lawyer. The assessment recommended making judicial decisions relating to the jurisdiction of traditional leaders more accessible to the public. It also recommended the court working with the Peoples' Lawyer to disseminate information through brochures or the radio.

Ideally, Focus Group Discussions should be held on a routine basis. This could either be annually or every 2-3 years to inform the process of developing court strategic plans. This would allow the courts to review progress and identify any new, emerging issues.

5.3 USING SURVEY RESULTS

As with other forms of Access to Justice Assessments, results of Access to Justice surveys can be used in a number of ways. This includes:

- *Informing policy*: results can lead to changes in court policies or rules in relation to how cases are heard or judicial administration and service delivery;
- *Improving services*: results can assist courts target services based on needs, either by improving or reallocating the types of services provided or identifying needs for new services;
- *Resourcing courts*: results can assist courts in making a case for additional resources or for new resources to address specific issues; and
- *Engaging donors*: courts can be better prepared for engaging with donors by providing documented evidence of justice needs.

The box below provides an example of how Access to Justice survey results have been used by courts in Indonesia.

Access and Equity Survey in Indonesia

Between 2007-09, the Supreme Court in Indonesia, with support from the Family Court of Australia, conducted an Access and Equity Study to compile empirical data on quality of services provided by general and religious courts in family law. The study involved extensive surveys of court users and non-users as well as case file analysis and interviews with legal professionals. The Court worked with an NGO delivering services to women-headed households to identify non-users, predominantly women living below the poverty line.

The survey identified that court costs in family cases were almost four times the monthly income of people living on the poverty line, explaining non-use. In addition, the consequences of not using court services were serious for women and their children, limiting the ability to claim child support and access to legal documentation.

The Supreme Court used the survey results in a number of ways:


- i. They drafted new guidelines on providing legal aid services through waiver of court fees, provision of circuit courts and establishing legal aid posts;
- ii. They strengthened systems to implement these guidelines and established a monitoring system that included SMS monitoring on caseloads across courts; and
- iii. The Government was convinced to significantly increase budgetary support to the Supreme Court initiatives leading to a 14-fold increase in the number of people accessing courts through court fee waivers.



ACCESS TO JUSTICE ASSESSMENT TOOLKIT - ADDITIONAL DOCUMENTATION

Available at:

<http://www.fedcourt.gov.au/pjdp/pjdp-toolkits/Access-To-Justice-Toolkit-AD.pdf>



Toolkits are evolving and changes may be made in future versions. For the latest version of this Toolkit and the Additional Documentation please refer to the website - <http://www.fedcourt.gov.au/pjdp/pjdp-toolkits>

Note: While every effort has been made to produce informative and educative tools, the applicability of these may vary depending on country and regional circumstances.



Pacific Judicial Development Programme

ACCESS TO JUSTICE ASSESSMENT TOOLKIT

PJDP toolkits are available on: <http://www.fedcourt.gov.au/pjdp/pjdp-toolkits>

