



# PACIFIC JUDICIAL STRENGTHENING INITIATIVE

## Milestone 4: Baseline Review and Results Framework

*31 July 2017*



**FEDERAL COURT  
OF AUSTRALIA**



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## Table of Contents

Glossary of Terms .....	2
Executive Summary .....	3
Judicial leaders lead & manage change locally .....	3
Court services are more accessible, just, efficient & responsive .....	3
How responsive, just, fair & reasonable PIC courts are .....	3
How efficiently cases are disposed of .....	3
1 Background.....	4
2 Methodology .....	4
3 Goal: Building Fairer Societies through more Accessible, Just, Efficient and Responsive Court Services.....	6
4 LTO1 - Judicial Leaders and Leading and Managing Change Locally.....	7
6 LTO2 - Court services are more accessible, just, efficient and responsive .....	8
7 MTO2 - Court Services are more Accessible, Just, Efficient and Fair .....	9
8 MTO2 - Indicator 1: How Knowledgeable & Confident are People to Assert Legal Rights? .....	9
9 MTO2 - Indicator 2: How Professional are PIC Courts?.....	11
10 MTO2 - Indicator 3: How Responsive, Just, Fair & Reasonable are PIC Courts?.....	12
11 MTO2 - Indicator 4: How Efficiently are Cases Disposed of? .....	14
12 Conclusion .....	16
Annex A - Focus Group Discussion – Scoring and Long Responses.....	19
Annex B - Locally-Led Activities .....	40
Annex C - Estimate of Vulnerable & Marginalised Groups .....	43
Annex D - Baseline Data Augmentation .....	44
Annex E - Results Diagram.....	46
Annex F - Results Management Table.....	47



## Glossary of Terms

Accessibility	People can get to a court, easily and affordably file a case and easily navigate the court process.
Baseline measure	Description of the current status within PICs with respect to each of the indicators selected to measure progress towards/achievement of each of PJSIs outcomes and goal.
CBO	Community - Based Organisation
Efficiency	There are no unnecessary delays, or delays people do not understand in the hearing and disposal of cases including handing down of judgments.
GFV	Gender and Family Violence
Justice	The process and outcomes are fair – that is judicial and court officers demonstrate independence, impartiality, integrity, propriety, equality, diligence and competence.
Key performance indicators	Are measures against which improvements in the provision of justice by courts can be measured
Marginalised groups	Unable, or less able to seek and obtain fair and effective responses for the resolution of conflicts, control of abuse of power, and protection of rights, through transparent processes, and affordable and accountable mechanisms. <sup>1</sup>
MFAT	Ministry of Foreign Affairs and Trade, New Zealand
NGO	Non-Government Organisation
PICs	Pacific Island Countries / Courts
PJDP	Pacific Judicial Development Programme
PJSI	Pacific Judicial Strengthening Initiative
Professionalism	Speaks to, and treats everyone courteously and fairly; provides clear information and guidance to help people through the court process; knows the law and/or court process; and makes impartial decisions according to law and/or established procedure.
Responsive	Judicial and court officers understand and respond appropriately to people's legal needs.
SMART indicators	Measures which are specific, measurable, accurate, reliable, and time-bound
Vulnerable people	Those who by virtue of gender, ethnicity, age, physical or mental disability, educational or economic disadvantage, or social status are more susceptible as a community, to abuses of their rights.
WBWGI	World Bank World Governance Indicators

1 United Nations Development Programme. *Access to Justice Assessments in the Asia Pacific: A Review of Experiences and Tools from the Region* by Ramani Jayasundere, Bangkok, 2012, p 103. Available from: [www.asia-pacific.undp.org/content/dam/.../APRC-DG-2012-A2J\\_Assessments.pdf](http://www.asia-pacific.undp.org/content/dam/.../APRC-DG-2012-A2J_Assessments.pdf).



## Executive Summary

How accessible, just, efficient and responsive are Pacific<sup>2</sup> justice services? This, along with a number of ancillary questions were asked during PJSI Baseline Review in order to establish the baseline position relative to the indicators assigned to each of PJSIs objectives.

Data informing the baseline position is derived from the table below, data from 198 people who participated in 16 in-PIC Focus Group Discussions, analysis of local versus externally-led activities and the World Bank’s World Governance Indicators. It is complimented with a review of Pacific Judicial Strengthening Initiative (PJSI) Needs Assessment, Pacific Judicial Development Programme (PJDP) Completion, Progress and Court Performance Trend Reports, Pacific justice studies.<sup>1</sup>

The baseline status of the indicators against the Goal, Long-Term Outcomes (LTO year 5) and Medium-Term Outcomes (MTO year 4) along with their target increases is provided below:<sup>3</sup>

Objective		Indicator	Baseline	Target
<b>Goal</b>	Building Fairer Societies through more accessible, just, efficient & responsive court services	Public <b>trust and confidence</b> in the courts	<b>28%</b> of court users have trust & confidence in the courts	<b>10%</b> increase in public trust & confidence
<b>LTO 1</b>	Judicial leaders lead & manage change locally	The quantum of <b>locally-led</b> versus externally-led change	<b>18%</b> of change is driven locally	<b>15%</b> increase in locally-driven change
<b>LTO 2</b>	Court services are more accessible, just, efficient & responsive	The extent to which court users are <b>satisfied</b> with the courts	<b>25%</b> of people are satisfied with the courts	<b>10%</b> increase in court users’ satisfaction with the courts
<b>MTO 2</b>	Court services are more accessible, just, efficient & fair	How <b>knowledgeable &amp; confident</b> people are to assert legal rights	<b>22%</b> of people have sufficient knowledge of, and confidence to assert their legal rights	<b>10%</b> increase in knowledge of & confidence to assert legal rights
		How <b>professional</b> PIC courts are	<b>32.5%</b> of court users consider that judicial/court officers act professionally	<b>15%</b> increase in professionalism among trained judicial & court officers
		How <b>responsive, just, fair &amp; reasonable</b> PIC courts are	<b>27%</b> of court users consider courts to be responsive, just, fair & reasonable	<b>10%</b> improvement in perceptions of courts being responsive, just, fair & reasonable
		How <b>efficiently</b> cases are disposed of	<b>18%</b> of court users consider cases to be disposed of efficiently	<b>12.5%</b> reduction in delay & case backlogs

<sup>2</sup> Participating countries are: Cook Islands, Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

<sup>3</sup> See the methodology section, sections 3-11 and Annex A for further information about the questions, scoring and narrative.



## 1 Background

The **purpose of PJSI** is to address the primary challenges identified by the PJSI Needs Assessment: access to justice to courts; competent provision of substantive justice outcomes; and efficient delivery of procedural justice services. **PJSI's long-term outcomes** related to leadership and performance: (1) judicial leaders are capable of leading and managing change locally; and (2) court services are accessible, responsive, fair, and efficient. Focus on each is delivered pursuant to five thematic pillars: judicial leadership, access to justice, professionalisation, substantive justice and procedural justice. The **medium term outcomes** and the **associated inputs** to achieve them are:

1. **Improved capacity of judicial leadership to assess needs, plan, own and lead judicial development locally:** by providing regional and local leadership training, associated resources and tools, and an incentive fund enabling local activities to be designed and delivered locally.
2. **Marginalised and vulnerable groups better able to access justice in and through courts:** by generating commitment and capacity to improve access to justice through the provision of regional and local training and the provision of associated resources and tools.
3. **PICs operate with a higher level of professionalism:** by providing regional and local training in priority competence areas, resources enabling local trainers to deliver competence training and the development of a modality to institutionalise cost-effective and sustainable in-region training.
4. **PICs exhibit more responsive and just behaviour and treatment that is fair and reasonable:** by generating commitment and capacity to improve human rights along with gender and family violence through the provision of regional and local training and the provision of associated resources.
5. **Cases are disposed of more efficiently:** by equipping PICs with the tools and capacity to reduce case backlogs and efficiently manage cases; along with continuing to support PICs to monitor, evaluate and report on court performance according to specific indicators and standards.

## 2 Methodology

The methodology used to complete the Baseline Review comprised an analysis of: PJDP: Completion Report, periodic reports, and the most recently available court performance data; PJSI: Needs Assessment; Relevant studies and literature about justice in the Pacific.<sup>4</sup> In addition it includes data from Data from 16 Focus Group Discussions (FGD) held in Vanuatu, Solomon Islands, Samoa, Tonga, Niue, Tokelau, FSM and Palau between February and June 2017.

PJSI conducted FGDs in the maximum number of PICs possible, by additional tasking of Technical Advisors (TAs) conducting in-country activities, and expending the Monitoring & Evaluation (M&E) component of the budget. It was not possible to include the other six PICs in the process as no TAs were scheduled to visit them, and the M&E budget did not extend to cover associated costs. PJSI ensured that at least two FGDs from each sub-Pacific region were included. One **hundred and ninety-eight people** participated: 131/66% from government justice sector agencies and in a separate meeting, 67/34% from the non-government sector. The latter spoke for vulnerable and marginalised groups in each community they represent. Eighty-two or 42% of all participants were women.

Participants were asked a series of 10 questions. The answers were transcribed, collated and analysed by three experts independently. Following that analysis, indicators related to the questions were assigned an overall descriptor, ranking and scale from the nine-point scale below.

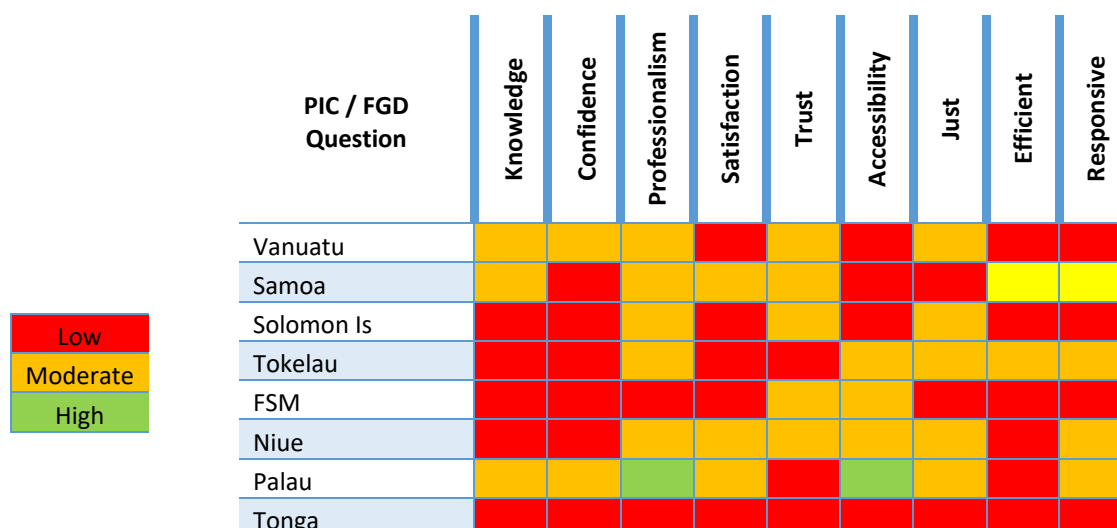
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<sup>4</sup> See endnote for bibliography.



Status	Ranking	Descriptor
High	90-100%	Exceptional
	80-90%	Outstanding
	70-80%	Excellent
	60-70%	Very Good
Moderate	50-60%	Good
	40-50%	Satisfactory
	30-40%	Fair
Low	20-30%	Marginal
	0-20%	Poor

The table below provides a ‘snapshot’ of the status assigned against each question in PIC participating in the FGDs.



The original Baseline Review methodology included a survey. It was approved by the region’s Chief Justices and sent to over 200 people across all PICs in late 2016. Less than 20 responses were received rendering the data insufficiently representative of perceptions within any PIC. It could not therefore be used.

While conducting FGD in eight PICs is useful in gauging the perceptions of court users in those countries, it is acknowledged that the views of six PICs are not included. It is anticipated that during the life of the PJSI FGDs will be conducted in those countries. It is also acknowledged that the rankings are subjective assessments of wider group discussions, but those discussions are not necessarily accurately representative of the entire body of court users and potential court users in each PIC. FGD data is therefore triangulated against other data where it exists, and represents the best data available to PJSI.

It is noted that Medium-Term Outcome 2 is not discussed in this report. That is because it is the same as Long-Term Outcome 1, the baseline for and discussion about which is included.



### 3 Goal: Building Fairer Societies through more Accessible, Just, Efficient and Responsive Court Services

#### 3.1 Aim & Target

##### 10% increase in public trust and confidence

Public trust and confidence in the judiciary is derived from the community perceiving courts to be accessible, just, efficient and fair. It is therefore, a critical indicator to assess the extent to which PJSI is progressing towards its goal. In addition to seeing improvements in trust and confidence, PJSI also aims to see improvements in the World Bank's World Governance Indicators: Rule of Law in 2016 (WBWGI). The WBWGI are an accepted and independent indicator of perceptions about the rule of law. However, they measure a much broader range of indicators, many beyond PJSIs scope and influence. As such, attribution and relevance will be considered thoughtfully when evaluating any changes in the data-sets.

#### 3.2 Baseline

##### 28% of court users have trust and confidence in the courts

Perceptions of trust and confidence in the judiciary expressed by those participating in the FGD ranged from *low* in Tokelau, Tonga, Palau, Niue, FSM and Samoa to *moderate* in the Solomon Islands and Vanuatu. See **Annex A** for a breakdown of responses and scores by PIC.

The status of the rule of law measured by the WBWGI and interpreted by PJSIs nine-point scale<sup>5</sup> spans from *moderate* (Vanuatu, Solomon Islands, FSM, Marshall Islands, Tonga and Kiribati) to *low* in other PICs but for Palau, Tuvalu and Samoa which score *high*.<sup>6</sup> PJSIs baseline results do not match the WBWGI as the latter measures a much broader range of indicators, including 50 unrelated to the courts. This renders the measure informative, not uniformly corroborative of PJSIs baseline and progress over time.

PICs <sup>7</sup>	Global % rankings <sup>8</sup>	PJSI interpretation of status	
Cook Islands <sup>9</sup>	19.2	Poor	Low
PNG	18.8	Poor	
Nauru	10.6	Poor	
Niue	28	Marginal	Moderate
Solomon Is	33.1	Fair	
FSM	45.2	Satisfactory	
Marshall Is	48.6	Satisfactory	
Tonga	49.5	Satisfactory	
Kiribati	51.4	Good	
Vanuatu	58.2	Good	High
Palau	63.5	Very good	
Tuvalu	65.9	Very good	
Samoa	74	Excellent	

<sup>5</sup> See Annex A for the nine-point scale.

<sup>6</sup> See Annex B for a table of 2015 rankings, a list of the concepts measured and PJSIs analysis of them. The World Bank measures a large number of factors in order to arrive at its score. Many of those factors are beyond the scope and influence of the PJSI, and as such, the metric is included as indicatively corroborative of PJSIs findings. For this reason, PJSI cannot be responsible for progress made against this scoring metric.

<sup>7</sup> No data is available about Tokelau.

<sup>8</sup> Percentile rankings range from 0 (lowest) to 100 (highest). The data, indicators and methodology are available at: <http://info.worldbank.org/governance/wgi/index.aspx#doc>.

<sup>9</sup> Latest data available is from 2013.



To understand the rankings, PJSI assessed them according to the nine-point scale shown in **Annex A**.

The World Bank analysis captures perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence. In addition to 38 court-related measures, the World Bank measures a further **50** indicators to arrive at its conclusion. All of those 50 indicators are beyond the scope and influence of the PJSI.

PJSI's FGDs suggested higher levels of confidence in individual judges and/or higher courts (where judges are qualified). Many however expressed reservations about lower level courts (where judges are predominantly unqualified). Reservations about lay and qualified judges focus on: fearfulness of going to court, bias, insufficient/over consideration of custom, inconsistent treatment and outcomes, insufficient penalties, unreasonable delay, and a lack of independence from executive government<sup>10</sup>.

## 4 LTO1 – Judicial Leaders and Leading and Managing Change Locally

### 4.1 Aim & Target

#### 15% increase in locally-driven change

All PIC constitutions guarantee the independence of the judiciary to interpret and apply the law to resolve legal disputes. While judicial independence remains fragile in some nations<sup>11</sup> judicial leaders continue to plan for and deliver on developmental goals with increasing autonomy. As such, PJSI will strengthen strategic national/regional capacity to do so. It will also provide tools enabling competent oversight of local judicial development. This in turn will enable the region's judicial leaders<sup>12</sup> to achieve leadership and change management potential without, or with less reliance on, external assistance.

Progress will be measured by assessment against a series of pre-defined measures indicative of local leadership of the planning and delivery process.<sup>13</sup> PJSI determines that a realistically achievable target for regional improvement is 15% subject to the availability of funding to implement local activities.

### 4.2 Baseline

#### 18% of change is driven locally<sup>14</sup>

Leadership capacity varies across the region. All PICs assess their capacity as being at a *medium* level, but for Tokelau, Niue, Nauru and Tuvalu which assessed their capacity as *low*.<sup>15</sup> Most PICs have designed and

10 Mentioned during all in-PIC focus group discussions.

11 Noting the politically motivated removal of Nauru's Chief Justice and Chief Magistrate in 2014, and periodic exertion of political pressure on the courts in PNG including the Chief Justice being charged with sedition in 2012.

12 Leaders include: Chief Justices, heads of bench, Registrars, members of National Judicial Development Committees, National Coordinators, National/Regional Training Team members or other senior judges/staff nominated by the Chief Justice as representative judicial leaders.

13 Indicative measures include; existence and active operation of National Judicial Development Committees (however named), existence and active implementation of local strategic development plans (however named), number of local trainers and the extent to which they are encouraged/able to conduct training, number of local training/development activities conducted, number of locally inspired/led changes implemented, capacity to assess needs, design, implement, monitor and evaluate local activities. Success is measured by internal assessment of the following 5 OECD-DAC: 1) *Did the project address the identified need?* [relevance & effectiveness] 2) *Did it demonstrably achieve its stated objective/s and (overtime) deliver its intended result/s?* [impact] 2) *Was it delivered on time and within budget?* [efficiency] 3) *Will the outcomes and results live on over time?* [sustainability].

14 Defined as the percentage of activities designed and delivered by local actors against the total number of activities delivered in each PIC by external actors. See Annex B for the raw data.

15 PICs completed a self-assessment during the PJSI Activity Design Consultation Workshop, Auckland, February 2016 which asked them to rate capacity against the following criteria: *Human Capability*: breadth and depth of the 'human quotient' within a partner court, namely; extent of operational and financial independence, succession capabilities, number of key positions occupied by skilled personnel; *Professionalism*: number of people with legal education and at which level; *Existence of institutionalised court development frameworks*; *Capacity to Drive and Manage Locally*: assessment of partner courts' 'proactivity' and project management capacity; *Equity / Fairness*: Levels of support/funding available either from jurisdiction's own government or other donor initiatives; and *Sustainability*: potential





delivered development activities locally over the preceding 18 months, but their activities remain at a much lower level than those designed and delivered by external actors/donors. See **Annex B** for a breakdown of the locally and externally driven activities reported to have taken place in each PJSI.

15% of respondents to the PJSI Needs Assessment survey highlighted judicial leadership and change management capacity as a priority need.<sup>16</sup> While overall this ranked as the seventh priority need, strong leadership and change management capacity is a prerequisite to effectively addressing all reforms and development needs.

Following PJDPs interventions, there have been improvements in capacity – including capacity to design and deliver activities locally. Also as a result of PJDPs interventions, judicial leaders have taken greater responsibility for local judicial development<sup>17</sup>. To assess further improvements in these areas during the life of the PJSI, PJSI will focus on the extent to which courts:

1. Routinely elicit **feedback from external stakeholders** to identify and address performance weaknesses;<sup>18</sup>
2. Explicitly commit, focus and prioritise **reforms** to improve accessibility to justice and the appropriateness of responses particularly for legal issues facing **vulnerable and marginalised groups**;
3. **Address inequity** amongst vulnerable people, particularly related to regionally consistent advances in gender equality, and the appropriate treatment of all forms of gender and family violence.

## 6 LTO2: Court services are more accessible, just, efficient and responsive

### 6.1 Aim & Target

#### 10% increase in court users' satisfaction with the courts

To measure the extent to which court users consider judicial and court officers and their court services to be accessible, just, efficient and responsive, PJSI elected to measure the percentage of court users who are satisfied with courts; or consider them accessible, just, efficient and responsive. Given its focus on projects specifically designed to produce improvements in each of the four component areas of this indicator, PJSI considers that a realistically achievable target by the end of the Initiative is 10%. The target cannot realistically be set higher given the significant divergence of capacity in each PIC, and that PJSI's resources preclude bilateral focus in all PICs.

### 6.2 Baseline

#### 25% of people are satisfied with the courts

PJSI used perceptive data from the FGD to arrive at its conclusions about the extent to which court users are satisfied with PIC courts. Results ranged from *low* in Vanuatu, Tokelau, Solomon Islands, FSM, Tonga and Niue to *moderate* in Samoa and Palau. See **Annex A** for a breakdown of responses and scores by PIC.

While a number of respondents acknowledged recent improvements, dissatisfaction remains in areas including; inconsistent treatment and decision, delay, a lack of or inconsistent information and

autonomy and self-reliance once donor support ends. Pacific Judicial Strengthening Initiative, *Final Activity Design Document*, 2016, Sydney, p24.

16 Pacific Judicial Strengthening Initiative, *Needs Assessment Report and Indicative Design Concept*, 2016, Sydney, p 17.

17 As at June 2015, this group was comprised of: 49 Regional Training Team members (12 currently inactive) and 37 National Trainers. During the life of the PJDP, local trainers designed and delivered 69 professional development activities in 11 PICs without external technical assistance and 65% of all PJDP Responsive Fund activities were designed and delivered by local trainers.

18 Palau and the Republic of the Marshall Islands undertook regular client satisfaction surveys during 2012-14 and have published the results in their Annual Reports: Pacific Judicial Development Programme. Federal Court of Australia. *Court Trend Report 2014*



explanations about process including documentary requirements, judges being late to court, customer service, a lack of interpreters, and costs.

## 7 MTO2 – Court Services are more Accessible, Just, Efficient and Fair

This objective is discussed above as one of PJSI's Long-Term Outcomes. To measure progress in the medium term (i.e. year 4), PJSI has broken the objective down into a series of further indicators, the baseline for which was assessed during this Review. These indicators comprise the extent to which:

- a. Vulnerable and marginalised people have sufficient knowledge of, and confidence to assert their legal rights;
- b. Extent to which court users consider courts to be professional;
- c. Extent to which court users consider courts to be responsive, just, fair & reasonable; and
- d. Number of backlogged / delayed cases in PIC courts.

## 8 MTO2 – Indicator 1: How Knowledgeable & Confident are People to Assert Legal Rights?

### 8.1 Aim & Target

#### 10% increase in knowledge of, and confidence to assert their legal rights

Knowledge of and confidence to assert legal rights are fundamental requirements to promote access to justice. When questioned about the extent to which courts are accessible during the FGD, Vanuatu, Samoa, Solomon Islands and Tonga scored *low*, Niue, Tokelau and FSM scored *moderately* and Palau scored *high*. On average there is a *moderate* view of accessibility across the eight participating PIC. However, when it came to responses about efficiency, all PICs, but for Samoa and Tokelau scored *low*. Both of the latter scored *moderately*.

Vulnerable groups and those living outside urban centres in the Pacific cannot readily access formal courts.<sup>19</sup> There are also low levels of knowledge of the law, bound up with low levels of education among a number of PIC populations, and poor understanding of formal courts processes. The latter is in part a result of continuing recourse to informal mechanisms. There are also scant resources dedicated to increasing legal literacy. The cost of going to court and capacity to access courts are also prevalent reasons why courts are inaccessible across PICs. Even in the courtroom, a lack of legal representation jeopardises fairness either through an imbalance of adversarial power or errors of law or procedure. Further, the subjugation of cultural values, particularly related to gender-based violence demonstrates a deleterious impact of lacking knowledge.

The FGD confirmed that those particularly vulnerable to abuses of their rights and most marginalised from the formal justice system are youth (34% of PIC populations), the elderly (7% of PIC populations), those with disabilities (17% of PIC populations), those living in rural areas (55% of PIC population), foreign workers, refugees, women (24% of PIC populations) including those who fear reprisal from their husbands, and people who are trafficked.<sup>20</sup>

PJSI will promote proactivity within and among PICs courts to respond to community justice needs. This will be undertaken through outreach and empowerment activities, including education about the role of courts, the rule of law, and the exercise of legal rights. PJSI will focus explicitly on those who are vulnerable and/or marginalised from formal justice.

<sup>19</sup> For an explanation of the situation in Vanuatu, see Policing and Justice Support Program, Ministry of Justice and Community Services. *Conflict Management and Access to Justice in Rural Vanuatu*. Vanuatu, 2016, (herein referred to as the 'Vanuatu Report') p 135.

<sup>20</sup> All figures cited in this paragraph are drawn from the United Nations Population Fund estimate 2014, [http://countryoffice.unfpa.org/pacific/drive/web\\_140414\\_UNFPA\\_PopulationandDevelopmentProfiles-PacificSub-RegionExtendedv1LRv2.pdf](http://countryoffice.unfpa.org/pacific/drive/web_140414_UNFPA_PopulationandDevelopmentProfiles-PacificSub-RegionExtendedv1LRv2.pdf).



The Baseline Review demonstrates that legal literacy and confidence levels are very low region-wide, particularly outside larger urban areas and even more particularly, among vulnerable and marginalised groups. PJSI aims to improve by 10% knowledge of legal rights and confidence to exercise them among vulnerable and marginalised groups reference to qualitative/perception data.

## 8.2 Baseline

### 22% of people have sufficient knowledge of, and confidence to assert their legal rights

The FGD confirmed findings from various literature reviewed for this report. Averaged across the 16 FGD, knowledge of legal rights among vulnerable and marginalised groups is *marginal* and confidence to assert legal rights among those groups is *poor*. In terms of both knowledge of legal rights and confidence to assert legal rights, Tokelau, Solomon Islands, FSM, Niue, Tonga, Samoa and Vanuatu scored *low* with Palau scoring as *moderate*. See **Annex A** for a breakdown of responses and scores by PIC.

**Physical Access:** Of the 9.9 million people who live in the Pacific,<sup>21</sup> approximately 55% (or 5,445,000) reside outside larger urban areas. Courts and lawyers are often only located in urban centres. Courts often tour infrequently and have not been to many islands/atolls and localities for years.<sup>22</sup> PICs are exploring measures to counter impediments to physical access including telephone and internet-based hearings. The measures are not however well-used as they are insufficiently socialised and hampered by unreliable utility services and funding.

**Cost:** The cost of travelling to, filing a case in and navigating the court process are often prohibitive. In Vanuatu for example, court fees cost most of a low-income adult's weekly per capita expenditure.<sup>23</sup> Further, there is no clear procedure for fee waivers where the applicant faces financial hardship.<sup>24</sup> Where there is no legal aid, or NGO/CBO support, many cases cannot be brought to the formal justice sector.

**Knowledge and Confidence:** There remains very limited access to and understanding of information explaining legal rights, particularly among vulnerable and marginalised people and those living outside urban areas. There is also often scant information about how to access the information about the law and courts, as well as how to enforce rights and seek remedies.<sup>25</sup> Low levels of education, a lack of awareness of legal services and rights, familiarity and comfortableness with the courtroom and court process combine to undermine confidence to pursue justice.<sup>26</sup> This disproportionately impacts women<sup>27</sup>.

**Legal Representation:** The South Pacific Lawyers Association reports that there are 1,764 qualified lawyers in PICs.<sup>28</sup> 1,230 of those lawyers are in PNG. Region-wide, there are few qualified lawyers in remote locations and on outer islands. With the majority of the region's judicial officers not being law

<sup>21</sup> United Nations Population Fund estimate 2014, [http://countryoffice.unfpa.org/pacific/drive/web\\_140414\\_UNFPAPopulationandDevelopmentProfiles-PacificSub-RegionExtendedv1LRv2.pdf](http://countryoffice.unfpa.org/pacific/drive/web_140414_UNFPAPopulationandDevelopmentProfiles-PacificSub-RegionExtendedv1LRv2.pdf).

<sup>22</sup> Ibid, Vanuatu Report, p132; Pacific Judicial Development Programme. Federal Court of Australia. *Enabling Rights Project Completion Report*, Dr. Livingston Armytage. Sydney, 2014, p 5.

<sup>23</sup> Island Courts – more than half, Magistrates Court – four times the expenditure and Supreme Court – 10 times the expenditure, Ibid p19.

<sup>24</sup> Ibid p25.

<sup>25</sup> UN Women. *Women and Children's Access to Formal Justice in Vanuatu* pp5, 25; Pacific Judicial Development Programme. Federal Court of Australia. *Enabling Rights Project Completion Report* by Dr. Livingston Armytage. Sydney, 2014, p5; Vanuatu Report, p107 and p109.

<sup>26</sup> Ibid; UN Women. *Women and Children's Access to Formal Justice in Vanuatu*, p25.

<sup>27</sup> 60% of women surveyed in Vanuatu had no knowledge of the law (compared to 27% of men and 5% of chiefs); Vanuatu Report, p109 and further discussed at p135.

<sup>28</sup> The figures exclude Palau, Tokelau and the Marshall Islands



trained, qualified legal expertise is present in few court hearings.<sup>29</sup> This jeopardises fairness, either through imbalanced adversarial power or errors of law or procedure.<sup>30</sup>

## 9 MTO2 – Indicator 2: How Professional are PIC Courts?

### 9.1 Aim & Target

#### 15% increase in professionalism among trained judicial and court officers

Ensuring judicial and court officers operate professionally requires the competence (knowledge, skills and attitudes) to provide quality procedural and substantive justice. PJSI will build the competence and professionalism of judicial court officers and key court actors. It will focus on priority aspects of knowledge, judicial skills and ethical attitudes enabling them to administer and deliver justice competently. It will do this by conducting training programs; replenishing, extending and embedding training expertise to conduct substantive (legal and procedural) training, and developing a cost-effective and sustainable in-region option to professionalise Pacific judicial and court officers. The overarching aim of these projects is to devolve responsibility for conducting this training to local and regional trainers.

Improvements will be measured by assessing the impact on court users of behavioural change resulting from learning applied by judicial and court officers attending PJSI capacity building activities. PJSI aims to train over 1,100 judicial and court officers by mid-2019. Further targets will be identified if the PJSI contract is extended for the full five-year life of the PJSI.

### 9.2 Baseline

#### 32.5% of court users consider that judicial/court officers act professionally

During the FGDs, participants expressed mixed views about the professionalism of judicial and court officers. Approximately 80% of participants expressed confidence in officers within their apex courts, but for some equivocation relating to some individuals' treatment of those previously identified as marginalised and vulnerable. However, approximately the majority of participants expressed much less confidence in lower court judges, particularly where they are not legally qualified and/or well trained. They also suggested that generally, there is less professionalism among court officers in these courts.

In assessing the FGD responses, FSM, Tonga, Vanuatu, Samoa, Solomon Islands and Tokelau scored *low* with Niue scoring *moderately* and Palau scoring *high*. The averaged status between all eight PIC is *moderate*.

**Training:** Poor quality justice disproportionately affects people seeking justice from first instance courts. This is because they comprise predominantly lay justices with little or no access to induction and ongoing training.<sup>31</sup> Their needs span from understanding the role of the justice system - and their role within it - to fundamental aspects of law and procedure, generic judicial skills and the precepts of judicial independence, ethical standards and the principles of procedural justice or fair trial. Judicial officers at this level are more prone to make errors in substance because they do not have any/sufficient training in

29 In Kiribati, through PJD, there has been a visible increase in the awareness and knowledge of judicial/court officers about conducting a fair hearing for unrepresented litigants. In the Cook Islands, free legal advice is provided to women. In Kiribati and Tuvalu, the Peoples' Lawyer provides free legal advice for people who are financially disadvantaged or who are unable to access private legal representation. The Federated States of Micronesia, Marshall Islands and Palau also have free legal services provided by the Micronesian Legal Services Corporation. In Niue, visiting legal teams from New Zealand established *pro bono* services, and provide training for local lawyers and judicial staff. In Samoa, legal aid is provided to some parties. The Solomon Islands has established the Public Solicitors Office (PSO) under the Constitution to provide legal aid. Lawyers are not present in Tokelau court rooms, but defendants can acquire one if needed. There is no formal legal aid scheme in Tonga however lawyers will sometimes appear on a *pro bono* basis. The Constitution of Vanuatu provides a right to legal assistance where a person has been charged with a serious offence and cannot afford representation.

30 Pacific Judicial Development Programme. Federal Court of Australia. *Enabling Rights & Unrepresented Litigants Toolkit* by Livingston Armytage. Sydney, 2015. Available from: [www.fedcourt.gov.au/pjdp/pjdp-toolkits/Enabling-Rights-Toolkit-2016.pdf](http://www.fedcourt.gov.au/pjdp/pjdp-toolkits/Enabling-Rights-Toolkit-2016.pdf), pIV

31 Pacific Judicial Strengthening Initiative, *Needs Assessment Report and Indicative Design Concept*, 2016, Sydney, pp 8-9.



the law. The primary qualification for appointment to first instance courts is community respect.<sup>32</sup> PJSI Needs Assessment indicated that the highest prioritised thematic area of need (at 47% of responses received) relates to the need to improve the competence of judicial and court officers across the region.

While the PJDP and other programs provided training and resources to hundreds of judicial and court officers, a prerequisite to behavioural change is a larger number of training events. Sufficient organised and ongoing support to judicial and court officers, including written materials to guide them in their work, is not available, particularly at the lower levels of PICs judiciaries.<sup>33</sup> This weakness directly impacts community access to justice as the formal system cannot adequately serve those who attend court, and it creates greater backlogs in appeals to the higher level courts.<sup>34</sup>

**Confidence in the judiciary:** In Vanuatu<sup>35</sup>, women along with community members and leaders, view state justice as fairer than informal systems. And, women have a more positive view of the decisions reached in the formal justice system.<sup>36</sup> More than half of the women, men and chiefs surveyed for a recent study indicated that state justice would for example be the best place to solve a domestic violence conflict.<sup>37</sup>

However, when people do reach formal courts across the region, inappropriately low sentences unreflective of the seriousness of the crime, or the gravity of the harm, promote cultural impunity. Many people continue to experience otherwise poor quality justice services. This is due in varying degrees to a lack of training, gender sensitisation and gaps in, or non-compliance with, existing policies, protocols and laws by formal justice agencies. These elements combine to undermine trust in the ability of the formal justice system to deliver impartial and effective justice.<sup>38</sup>

## 10 MTO2 – Indicator 3: How Responsive, Just, Fair & Reasonable are PIC Courts?

### 10.1 Aim & Target

#### 10% improvement in perceptions of courts being responsive, just, fair and reasonable

Fairness embodies two principles: equality of treatment; and where disadvantage exists, equitable restoration of equality.<sup>39</sup> It requires that no law, custom, tradition, culture or religious consideration should be invoked to excuse discrimination.<sup>40</sup> It also requires that justice should be delivered predictably and efficiently. By extension, it also requires the courts to be proactive in responding to the needs of those who are vulnerable and/or marginalised. To support this, the PJSI is adapting and integrating norms of international human rights law with local customary values and practices for the courts to formulate local codes of human rights for use by court officers and members of the community to deliver improved substantive justice outcomes. In turn, this will enable PICs to deliver justice aligned with international human rights norms.

PJSI's focus is on the pandemic levels of gender and family violence (GFV) across the region in particular. To contribute to alleviating this PJSI will support courts to better apply the rule of law, and be more accessible and responsive in delivering improved substantive justice outcomes in related cases. As a

32 Pacific Judicial Development Programme. Federal Court of Australia. *Enabling Rights Project Completion Report* by Dr. Livingston Armytage. Sydney, 2014, p5.

33 Ibid.

34 Vanuatu Report, p39; Ibid fn. 65.

35 Recent research data is not available from other PICs.

36 Vanuatu Report, p135.

37 Ibid p107.

38 UN Women. *Women and Children's Access to Formal Justice in Vanuatu*, p23.

39 Pacific Judicial Strengthening Initiative, *Needs Assessment Report and Indicative Design Concept*, 2016, Sydney citing Rawls, J. 1971, *A Theory of Justice*, revised edn 1999, Oxford University Press.

40 Chris Yuen and (the late) Joni Madraiwiwi, "Editorial Review" *Pacific Human Rights Law Digest* 1 (2005), available from: [www.paclii.org/other/PHRLD/pacific-human-rights-law-digest-5.pdf](http://www.paclii.org/other/PHRLD/pacific-human-rights-law-digest-5.pdf), p10-11.



result, PJSI aims to measurably improve the accessibility and responsiveness of court services to survivors of GFV, and their satisfaction with courts and justice outcomes according to law.

Improvements will be measured initially by an assessment of reforms instituted by PICs courts to address impediments and deficiencies and later complemented with perceptions of court users. Reforms are at a nascent stage. PJSI has recently completed new toolkits which will support reforms in the human rights and gender/family violence sphere. These have been endorsed by the region's Chief Justices, demonstrating strong appetite to institute change in these areas. PJSI will measure how this appetite translates into substantive change, and then, the extent to which that change is felt by court users in terms of their perceptions about improvements in the four components of this indicator.

## 10.2 Baseline

### 27% of court users consider courts to be responsive, just, fair and reasonable

During the FGD participants were asked separate questions about the extent they consider their courts to be just and responsive. Discussions included the concepts of fairness and reasonableness as sub-sets of courts being just and responsive. Scored about the extent to which courts are **just** ranged from *low* in Samoa, Tonga and FSM to *moderate* in all other PICs. Responses about the extent to which courts are considered **responsive** ranged from *low* in Solomon Islands, FSM, Tonga and Vanuatu to *moderate* in Samoa, Tokelau, Palau and Niue. The mean status across both questions is *low*.

As PJSI's focus in this sphere is on human rights and gender and family violence, it is through this lens the proceeding discussion is dedicated. Notwithstanding, participants in the FGDs were asked more broadly for their assessment of whether courts are responsive, just, fair and act reasonably in order to capture a more global picture of court users' perceptions.

**Gender and Family Violence:** More than two thirds of women and girls in the Pacific experience GFV - *twice* the currently reported global average.<sup>41</sup> In a recent regional study of sentences in GFV cases, 58% of cases involved a child under the age of 18, 40% involved a child under the age of 15 and 28% involved a child aged between 12 and 15.<sup>42</sup> Patriarchal norms along with the breakdown of matriarchal norms, gender stereotypes, and custom have embedded gender discrimination within the structures of Pacific societies. This has eroded avenues for justice, redress, and protection. These structural barriers allow perpetrators to evade accountability. As a result, women are disempowered and vulnerable and have little faith in the justice system that should protect them.<sup>43</sup>

Customary reconciliation remains prevalent in many PICs, often regardless of the age or consent of the survivor. Many reconciliation ceremonies involve the families or village of the survivor. In situations where the survivor is young, their capacity to understand the nature of the reconciliation or the importance attached to accepting apologies does not seem to be a consideration.<sup>44</sup> Even within PIC courtrooms, there are deeply entrenched social and cultural biases which have fused with law and undermine the capacity of survivors to seek and obtain redress in formal courts. In addition, there is

41 Ibid; UN Women Pacific. *Ending Violence against Women and Girls: Evidence, Data and Knowledge in Pacific Island Countries*, by Jenny Ryan and Lina Abirafeh. Suva, 2011, available from: <http://www2.unwomen.org/~media/field%20office%20eseasia/docs/publications/2011/ending%20violence%20against%20women%20and%20girls.pdf?v=1&d=20160810T043145>; 20% of women reporting being sexually abused before the age of 15: Secretariat of the Pacific Community. *Kiribati Family Health and Support Study: A study on violence against women and children*, by Emma Fulu. Noumea, New Caledonia, 2010. Available from: <http://countryoffice.unfpa.org/pacific/drive/KiribatiFamilyHealthandSafetyStudy.pdf>; 37% of women reporting being sexually abused before the age of 15: Secretariat of the Pacific Community, *Solomon Islands Family Health and Support Study 2009*.

42 International Centre for Advocates Against Discrimination, *An Analysis of Judicial Sentencing Practices in Sexual and Gender-Based Violence Cases in the Pacific Islands Region, 2015* (hereafter referred to as the ICAAD Report) available from <http://www.pacii.org/other/general-materials/ICAAD-Analysis-of-Judicial-Sentencing-Practices-in-SGBV-Cases.pdf>.

43 ICAAD Report, p5.

44 Ibid p28.



limited infrastructure, inadequate policies and rules among PIC courts to ensure the safety and privacy of women and children survivors and witnesses of violence, and to avoid their re-traumatisation.<sup>45</sup>

**Sentence Reduction:** Judicial officers often reduce sentences in GFV based on factors which unjustly privilege the interests of the perpetrator over the interests of the survivor, through gender stereotyping, rape myths and the consideration of customary practices.<sup>46</sup> Domestic violence cases are four times less likely to result in a custodial sentence than sexual assault cases. Where mitigating factors (which are often discriminatory in nature and rooted in gender bias) are accepted, the average reduction in sentence is 60% and 40% for domestic violence and sexual assault cases respectively.<sup>47</sup> Mitigating factors are raised in an overwhelming majority of cases.<sup>48</sup>

Mitigating factors are not always accepted by the judicial officer however. In such cases, the defendant is significantly more likely to receive a custodial sentence.<sup>49</sup> However, the number of cases where mitigating factors lead to a reduction is still over 50%.<sup>50</sup>

Gender stereotypes and customary reconciliation play a significant role in determining the nature and length of sentencing in GFV cases in PICs. The discriminatory nature of gender stereotypes and customary reconciliation has meant that survivors of GFV are denied equal protection under the law. When equipped with the knowledge, skills, appropriate attitudes and tools however, judicial officers can and do identify and reject mitigating factors raised by the defence.<sup>51</sup>

## 11 MTO2 – Indicator 4: How Efficiently are Cases Disposed of?

### 11.1 Aim & Target

#### 12.5% reduction in delay and case backlogs

PJSI will assist PICs to implement management and administrative tools and mechanisms to improve efficiency in the disposal of cases. PJSI will also support PICs to improve transparency by internally monitoring and evaluating court performance, collecting and externally publishing annual court performance data. Improvements will be measured by reference to PICs case management and court performance data published in Annual Reports. As it is unlikely that all PICs will have established time goals by the end of the PJSI – the standard against which delay/efficient case disposition can be quantified; PJSI will also refer to court users' perceptions about decreases in delay.

### 11.2 Baseline

#### 18% of court users consider cases to be disposed of efficiently

Contemporary uniform data from across the region about the age of cases and delay is not available as most PIC are yet to implement time standards. However, PJDPs 2014 Trend Report, which contains the most recently available regional data, provides the average ages of cases by PIC. It is noted that the efficiency rating above was not derived from this data but from perceptions of delay mentioned by FGD participants.

45 UN Women. *Women and Children's Access to Formal Justice in Vanuatu*, by Leisha Lister, Indira Rosenthal and Cate Sumner. Fiji, 2016  
Available from:

[http://www2.unwomen.org/~media/field%20office%20eseasia/docs/publications/2016/07/women\\_childrens\\_access\\_formal\\_justice\\_vanuatu\\_web.pdf?v=1&d=20160803T095212](http://www2.unwomen.org/~media/field%20office%20eseasia/docs/publications/2016/07/women_childrens_access_formal_justice_vanuatu_web.pdf?v=1&d=20160803T095212), p25.

46 Ibid p11.

47 Ibid p6.

48 90% of domestic violence cases, 76% of murder cases and 73% of sexual assault cases, Ibid p22.

49 Mitigating factors were rejected in 21% of cases and in 93% of these cases the defendant received a custodial sentence, Ibid p6.

50 66% in domestic violence cases, 45% in murder cases and 51% in sexual assault cases.

51 Ibid p9; Pacific Judicial Development Programme. Federal Court of Australia. *Completion Report 2010 – 2015*, Sydney, 2015, A-35.



Cook Islands	Federated States of Micronesia	Kiribati Islands	Marshall Islands	Nauru	Niue	Palau
No data	<b>Supreme Court:</b> Criminal cases: 278 days, Civil Cases 610 days, Appeal cases 379 days	<b>Court of Appeal:</b> 235 days	<b>Supreme Court</b> 895 days <b>High Court</b> Civil cases: 595 days Criminal cases: 1456 days	No data	<b>High Court</b> Land Division 72 days	<b>Supreme Court:</b> Criminal 147 days; Civil 796 days; Juvenile 121 days <b>Court of Common Pleas:</b> Small Claims 50 days, Citations 28 days; Criminal 156 days
Papua New Guinea	Samoa	Solomon Islands	Tokelau	Tonga	Tuvalu	Vanuatu
<b>National Court:</b> 1966 days	No Data	<b>Court of Appeal:</b> 129 days <b>Magistrates Court:</b> Criminal Cases 49 days	Atafu: 33 days Fakaofu: 44 days Nukunonu: 66 days Average across the	<b>Supreme Court:</b> Criminal 45 days; Civil 15 days; Land 29 days	No Data	<b>Supreme Court:</b> 473 days Magistrate s Court: 236 days

Table source: PJDP 2014 Trend Report, published June 2015.

While gains have been made in establishing time goals in some PICs and increasing the efficiency with which cases are disposed of in PICs courts, delay was cited by respondents to the PJSI Needs Assessment survey as the most significant impediment to justice.<sup>52</sup> This is corroborated by those who participated in the FGD and the PJDP 2014 Court Trend Report.<sup>53</sup>

Reportedly, delay results in part from a number of cases which come before the police and the courts but relate to matters that could be resolved elsewhere. This, in turn, is reportedly partly due to the actual or perceived ineffectiveness of informal justice in some areas, and the fact that first instance courts generally are not functioning effectively or to their full capacity. FGD participants also mentioned to delay emanating from how matters are being processed by and through the police. A number of issues that are making their way out of the community and to the police are not being effectively progressed beyond that point, leading to the perception at the community level that matters take too long in the courts.<sup>54</sup>

Notwithstanding these influences, delays of varying length persist within PICs courts. This delay is contributed to by variable capacity among judicial and court officers, inefficient case listing, management and disposal processes along with a lack of agreed time standards and/or non-adherence to achievements of time standards.

52 16% of respondents cited delay as the key impediment to justice: Pacific Judicial Strengthening Initiative, *Needs Assessment Report and Indicative Design Concept*, 2016, Sydney p6.

53 [http://www.fedcourt.gov.au/data/assets/pdf\\_file/0006/27978/Court\\_Trend\\_Report\\_web.pdf](http://www.fedcourt.gov.au/data/assets/pdf_file/0006/27978/Court_Trend_Report_web.pdf), see table 4.2.1, p48 which shows that it takes an average of 370 days for a case to be disposed of across all PIC courts.

54 Vanuatu Report, p31.





## 12 Conclusion

It can be seen from the preceding data and analysis that approximately a quarter of people who participated in the FGD are satisfied with, trust and have confidence in PIC courts. Similar numbers also consider PIC courts to be responsive, justice, fair and reasonable. PJSI's target aims to lift perceptions against all these indicators to over a third of people. These three indicators are allied in the sense that improvements against them will be predicated on court users experiencing the benefits of effective reforms, outreach and stronger capacity across other areas within, and beyond PJSI's sphere of influence.

While central to PJSI's design, knowledge of and confidence to assert legal rights, particularly among the significant portion of PIC societies who are vulnerable and marginalised, are dependent upon the level of proactivity and effectiveness among PIC courts in deploying the learning and tools provided by PJSI. Noting that approximately a quarter of people currently report having sufficient knowledge and confidence to assert their legal rights, PJSI aims to lift that to a third of people.

Currently low levels of local leadership driving change locally is in part a result of ongoing capacity building needs, but also a lack of opportunity based on funding constraints. PJSI notes that while it continues to strengthen the former, the latter is beyond its control. Increases in locally-driven change will continue to be monitored and measured, as will constraints on opportunity.

The highest score against all indicators was given for professionalism among judicial and court officers. While further improvements will enable courts to address numerous challenges articulated by court users in this Report and during the PJSI Needs Assessment, it is considered feasible that if judicial and court officers continue to demonstrate improvements to their capacity and performance to the same extent as they have been, that by the end of the PJSI, almost half of PIC populations will consider them to be professional.

Region-wide delay in case disposition is cited by an overwhelming majority of people as the most pervasive problem facing PIC courts. Less than a fifth of FGD participants consider PIC courts to be efficient. While PJSI will continue to support reductions in delay and increased efficiency, it is unlikely that time standards will be implemented in all PICs by the end of the PJSI. As such, qualitative data will also be required to gauge changes in perceptions about delay.

In its deliberations about targets, PJSI acknowledges that its process was necessarily intuitive. Concerned with a myriad of externalities influencing change, and therefore the achievement of the targets, it is critical for PJSI to manage stakeholders' expectations responsibly. The targets are therefore seen as an appropriate balance between conservatism and liberalism. Significant changes must occur in PICs in order to meet the targets. PJSI will closely monitor those changes, along with the externalities influencing them both positively and negatively. PJSI will measure changes to the medium and long-term outcomes comprehensively and rigorously, collecting and triangulating quantitative and qualitative data relevant to each indicator.<sup>55</sup> Given the significant perceptive data required to confirm accomplishment of several targets, this necessarily includes a repeat of the FGD in all 14 PICs participating in the PJSI.<sup>56</sup>

PJSI looks forward to continuing to collaborate with all PICs to work towards its objectives. We also look forward to continuing to monitor our performance alongside improvements in the performance of PIC courts and people's experience of the courts and justice across the region.

<sup>55</sup> If awarded an extension of its contract into years four and five of PJSI's life given this when the MTO and LTOs are required to be measured.

<sup>56</sup> It will be important that sufficient funding is available to conduct these FGD region-wide to ensure that PJSI captures this important data from all participating PICs.



1. Child Rights International Network, *Rights, Remedies and Representation: A Global report on Access to Justice for Children*, 2016 Available from: [https://www.crin.org/sites/default/files/crin\\_a2j\\_global\\_report\\_final\\_1.pdf](https://www.crin.org/sites/default/files/crin_a2j_global_report_final_1.pdf); International Centre for Advocates Against Discrimination and DLA Piper. *An Analysis of Judicial Sentencing Practices in Sexual and Gender-Based Violence Cases in the Pacific Island Region*, by Emily Christie, Hansdeep Singh and Jaspreet K. Singh, 2015 Available from <http://www.paclii.org/other/general-materials/ICAAD-Analysis-of-Judicial-Sentencing-Practices-in-SGBV-Cases.pdf>; OHCHR, OHCHR Commissioned Report: *Gender Stereotyping as a Human Rights Violation*, by Simon Cusack, 2013 Available from: <http://www.ohchr.org/Documents/Issues/Women/WRGS/2013-Gender-Stereotyping-as-HR-Violation.docx>; Policing and Justice Support Program . *Conflict Management and Access to Justice in Rural Vanuatu*, Vanuatu, 2016. Available from: [www.mjcs.gov.vu/images/.../Conflict\\_Management\\_and\\_A2J\\_in\\_Rural\\_Vanuatu.pdf](http://www.mjcs.gov.vu/images/.../Conflict_Management_and_A2J_in_Rural_Vanuatu.pdf); United Nations Children’s Fund. *Harmful Connections: Examining the relationship between violence against women and violence against children in the South Pacific 2015*, by Claudia Milucci. Suva, 2015 Available from: [https://www.unicef.org/pacificislands/Harmful\\_Connections\(1\).pdf](https://www.unicef.org/pacificislands/Harmful_Connections(1).pdf); United Nations Development Programme. *Human Development Report 2015*, New York, 2015 Available from [http://hdr.undp.org/sites/default/files/2015\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2015_human_development_report.pdf); UN Women. *Women and Children’s Access to Formal Justice in Vanuatu*, by Leisha Lister, Indira Rosenthal and Cate Sumner. Fiji, 2016 Available from: [http://www2.unwomen.org/~media/field%20office%20eseasia/docs/publications/2016/07/women\\_childrens\\_access\\_formal\\_justice\\_vanuatu\\_web.pdf?v=1&d=20160803T095212](http://www2.unwomen.org/~media/field%20office%20eseasia/docs/publications/2016/07/women_childrens_access_formal_justice_vanuatu_web.pdf?v=1&d=20160803T095212); World Bank World Governance Indicators 2016, available from: [www.govindicators.org](http://www.govindicators.org); Kiribati Family Health Study and Support Study: A study on violence against women and children; Noumea, New Caledonia: Secretariat of the Pacific Community; 2010; Solomon Islands Family Health and Support Study: A study on violence against women and children; Noumea, New Caledonia: Secretariat of the Pacific Community; 2009; 2014 UNFPA Cook Islands Family Health and Safety Study; 2014 UNFPA FSM Family Health and Safety Study; 2014 UNFPA Nauru Family Health and Safety Study; 2014 UNFPA Belau Family Health and Safety Study; 2014 UNFPA RMI Family Health and Safety Study; A review of Demographic Health Surveys in Tuvalu, 2007.



## Annexes

Annex A	Focus Group Discussions – Scoring and Long Responses
Annex B	Locally-Led versus Externally-Led Activities by PIC
Annex C	Estimate of Vulnerable & Marginalised Groups
Annex D	Baseline Data Augmentation
Annex E	Results Diagram
Annex F	Results Management Table



## Annex A Focus Group Discussion – Scoring and Long Responses

### Introduction

The responses below were elicited from a series of 16 FGD conducted in eight PICs. It was not possible to physically reach all PICs given budget and time constraints. While it renders the results incomplete in terms of them being comprehensively representative of all PICs, the FGD were conducted in all sub-regions as follows **Melanesia**: Vanuatu and the Solomon Islands, **Polynesia**: Samoa, Tokelau, Tonga and Niue; and **Micronesia**: FSM and Palau.

FGD participants were asked a series of 10 questions directly related to PJSIs indicators. The final question captured comments not otherwise captured by the preceding questions. The answers were transcribed (see below), collated and analysed by **three experts independently**. Following that analysis the responses were assigned an overall descriptor, ranking and status from the nine-point scale below.

Status	Ranking	Descriptor
High	90-100%	Exceptional
	80-90%	Outstanding
	70-80%	Excellent
	60-70%	Very Good
Moderate	50-60%	Good
	40-50%	Satisfactory
	30-40%	Fair
Low	20-30%	Marginal
	10-20%	Poor



**Scale Range by Question**

	Low		Moderate			High	Mean Ranking / Descriptor	Mean Status
	Poor	Marginal	Fair	Satisfactory	Good	Very Good		
Q1	Tokelau	Solomon Islands, FSM, Niue, Tonga	Vanuatu, Samoa		Palau		<b>25% = Marginal</b>	Low
Q2	Solomon Islands, Tokelau, Tonga, Samoa	FSM, Niue	Vanuatu	Palau			<b>19% = Poor</b>	Low
Q3		FSM, Tonga	Vanuatu, Samoa, Solomon Islands, Tokelau		Niue	Palau	<b>33% = Fair</b>	Moderate
Q4	Vanuatu, Tokelau	Solomon Islands, FSM, Tonga	Niue	Samoa	Palau		<b>25% = Marginal</b>	Low
Q5	Tokelau, Tonga	Palau	Niue, FSM, Samoa	Solomon Islands	Vanuatu		<b>28% = Marginal</b>	Low
Q6		Vanuatu, Samoa, Solomon Islands, Tonga	Niue	Tokelau, FSM		Palau	<b>31% = Fair</b>	Moderate
Q7	Samoa, Tonga	FSM	Niue, Tokelau, Solomon Islands	Vanuatu	Palau		<b>28% = Marginal</b>	Low
Q8	Vanuatu, FSM, Niue, Tonga	Solomon Islands, Palau	Samoa, Tokelau				<b>18% = Low</b>	Low
Q9	Solomon Islands, FSM, Tonga	Vanuatu	Samoa, Tokelau, Palau	Niue			<b>23% = Marginal</b>	Low

Question 10 is not analysed as it captured additional comments people wished to make unrelated to PJSIs indicators and objectives.



### 1. Vanuatu, 20 February 2017

Q1: To what extent do you think that vulnerable and/or marginalised court users understand their legal rights?	Ranking & Descriptor
<p>Understanding varies greatly depending on location and literacy levels. In urban centres understanding is relatively high, although literacy rates undermine better knowledge and understanding. Knowledge is low to non-existent in urban/remote areas where the formal system has no presence.</p>	30% Fair
Q2: Do you think that vulnerable and/or marginalised court users are confident to exercise their legal rights in court?	
<p>Much like knowledge, confidence is location dependant.</p>	30% Fair
Q3: Do court users think that judicial and court officers act professionally?	
<p>The judiciary is widely considered to be independent and people consider the Supreme Court judges to be professional. Improvements in case management are buoying opinions about professionalism but this does not extend to the Magistracy. Within the Magistrates Court, there are concerns about their inexperience prior to appointment and lack of any/sufficient training.</p>	30% Fair
Q4: Are court users satisfied with the help/support/services provided by the courts?	
<p>There is frequently inconsistency of decision about similar matters between judges/magistrates along with significant delays. Processes are not explained to court users who expect quick responses and are disappointed and dissatisfied when they do not receive them. Satisfaction depends on many variables.</p>	10% Poor
Q5: Do court users trust and have confidence in the courts?	
<p>People keep using the courts, and there are <b>good</b> levels of trust and confidence. People respect the rule of law and court decisions. Levels would though improve if the courts worked on issues of delay, competence and inconsistency.</p>	50% Good
Q6: Do court users think the courts are accessible?	
<p>There is far greater access in Port Vila and some other urban areas. Filing fees are though prohibitively expensive and there is no fee waiver system for indigent litigants. In rural areas, major barriers to accessibility are knowledge of the law, confidence to access formal justice, ability to be extricated from customary dispute resolution processes, physical access and funds. It is more common that courts are inaccessible. More magistrates, police, prosecutors and support services are required on other islands.</p>	20% Marginal
Q7: Do court users think the courts are just?	
<p>People who use the court would say it's fair. People who do not understand the court and its process might say it's unfair.</p>	40% Satisfactory
Q8: Do court users think courts are efficient?	



There are many delays in the process and in receiving judgments. A lack of qualified interpreters in court who make mistakes also slows down the process.	10% Poor
<b>Q9: Do court users think the courts are responsive?</b>	
The courts are often slow to respond to existing and emerging community needs such as evolving the process to resolve land disputes. While the Court was proactive in responding to domestic violence by creating protection orders, the impracticality and delay associated with securing an order undermine that proactivity.	20% Marginal
<b>Q10: Are there any other comments you wish to make about how accessible, just, efficient and responsive court services are in your country?</b>	
There should be more female judicial officers to respond more appropriately to domestic violence cases. The courts should create a friendlier environment for children and better access for people with disabilities.	

## 2. Samoa, 7 April 2017

<b>Q1) To what extent do you consider that vulnerable and or marginalised court users understand their legal rights?</b>	<b>Ranking &amp; Descriptor</b>
Marginalised groups include youth, women, the elderly, those with disabilities and those living in rural areas. Understanding legal rights depends on having access to education about the legal system. The unemployed and uneducated don't know their legal rights. There is a language barrier.	30% Fair
<b>Q2) Are vulnerable and/or marginalised court users confident to exercise their legal rights in court?</b>	
People living in rural areas do not have access to transportation or access to information on how to go about the legal process itself. Marginalised and vulnerable groups have difficulty accessing the courts system and justice due to lack of affordability of legal services and lack of free services.  Young people often have no understanding of the court system and cannot read or understand what is happening in court. Women who have been victims of domestic violence are especially not confident in exercising their legal rights in court due to fear.	10% Poor
<b>Q3) Do you think that judicial and court officers act professionally? (I.e. treating everyone fairly and courteously, providing clear guidance and information, being impartial, knowing the various steps in the legal process)</b>	
There are little concerns that Judges are not performing or acting professionally. There is a general problem with court staff acting professionally. Some court staff are professional but will give preferential treatment to family of friends. The delivery of information to young people is often piecemeal and the tone is often condescending.	30% Fair
<b>Q4) Are you satisfied with the help/support/services provided by the courts? (I.e. service)</b>	



<p>Samoa has come a long way with the services provided. Service is satisfactory but can be improved. There have been instances of delays causing details to fall through the cracks and complete information is often not communicated. A different level of service is experienced depending on whether you are a family or friend of a court officer.</p>	<p>40% Satisfactory</p>
<p><b>Q5) Do you trust and have confidence in the courts?</b></p>	
<p>There is general trust and confidence in the courts but there are barriers. One barrier is the village chief representative. Every matter is dealt with at a local village level – there is no legal standing in the formal judicial process. There are also concerns about the delay in judgements in reserved judgements.</p>	<p>30% Fair</p>
<p><b>Q6) Do you think the courts are accessible? (I.e. bringing cases to the court)</b></p>	
<p>The system is accessible but there is room to improve. Accessibility really depends on how confident people are to pursue matters and speak up about the issues in their lives. Many people are refused legal aid and have to attend court unrepresented which makes justice inaccessible.</p>	<p>20% Marginal</p>
<p><b>Q7) Do you think the courts are just? (I.e. impartial decisions)</b></p>	
<p>The courts are not just. People often don't have enough information to know their rights to get justice.</p>	<p>10% Poor</p>
<p><b>Q8) Do you think the courts are efficient? (I.e. are matters processed quickly?)</b></p>	
<p>The system is efficient but there is room to improve. There are systems in place but people need to be better educated on using the systems and procedures. There are delays caused by lawyers, police and other stakeholders. Case management requires improvement to reduce the current backlog.</p>	<p>30% Fair</p>
<p><b>Q9) Do you think the courts are responsive? (I.e. understand individual people's needs)</b></p>	
<p>Courts are responsive but there is room to improve. There are concerns over delays in urgent matters – no priority is afforded to time sensitive matters (ie protection orders).</p>	<p>30% Fair</p>
<p><b>Q10) Are there any other comments you wish to make about how accessible, just, efficient, and responsive court services are in your country?</b></p>	
<p>There is no trust in the land and title courts. The tone and the way people are addressed by court staff needs to be improved. Cases should be given differential treatment based on priority. There needs to be more education about understanding rights and the legal system in school, particularly in rural areas.</p>	





### 3. Solomon Islands, 27 April 2017

Q1) To what extent do you consider that vulnerable and/or marginalised court users understand their legal rights?	Ranking & Descriptor
<p>Participants rated this 2/10. Only when a person has a problem that they have any knowledge of their legal rights. Only when a person comes into contact with the law that they become aware of the law and some of their rights. There is a big difference between urban or rural areas: there is perhaps a ‘bubble’ of people in Honiara that have some knowledge of their legal rights. Some institutions or agencies may offer awareness programs on certain topics such as logging. Those with formal education are more likely to know their rights. Those in town are more likely to have access to newspapers and other sources information. There is not a strong emphasis on civil education in schools. This is the place to start. Even though we have education and most of us have legal backgrounds, we did not know about law, or only the very basics, until we went to university to study law.</p>	<p>20% Marginal</p>
Q2) Are vulnerable and/or marginalised court users confident to exercise their legal rights in court?	
<p>Knowing where to go to take action and how to take action, are both big issues. Most people only know about the police station. There is no clear pathway for most people, to justice. Little knowledge of the procedures. People only know the traditional channels: to call the church pastor or go to the chief, these are the main justice actors in rural communities. These are the pathways people know and they ‘solve’ most problems. There are very few circumstances where people say ‘you should go to the police’. Even those who know the process are not confident. There are a number of factors: even people who know their rights think getting them will be too expensive, or they are deterred by the long process of the court which makes people give up. Whereas traditional process is faster and people usually need a fast solution. Some people think there is no point reporting a criminal case because even if the case goes ahead, there is no real remedy. Victims not satisfied with punishment of jail. Some see this as a holiday for the perpetrator. There is no compensation and nothing given to ease the pain of the victim. So many people feel the end result will not fulfil their goal. After a person is released from prison they still usually have to go through reconciliation in custom. But when most people weigh the costs of the process with the outcome, they don’t think it’s worth it. Sometimes people are afraid or intimidated by perpetrators or others not to go to the court, especially women.</p>	<p>10% Poor</p>
Q3) Do you think that judicial and court officers act professionally? (i.e. treating everyone fairly and courteously, providing clear guidance and information, being impartial, knowing the various steps in the legal process)	
<p>Professionalism of judges: In giving decisions some do not even give reasons for their judgements and they provide a very simple basis for appeal as this is against fair trial standards. Sometimes judges have a conflict of interest and refuse to stand down from the case. Many people think the reasons for all the adjournments that people do not come or they are not ready, this is unprofessional and the court should not accept it. Magistrates generally treat vulnerable people better than lawyers and DPP. Magistrates are often very critical of the quality of police investigations and their speed. When there is a person with a disability the courts try to make sure there is a translator, or if a juvenile ask</p>	<p>30% Fair</p>



<p>the prosecutor to make application to close the court. Magistrates are playing a leadership role on attending to vulnerable people’s rights. Although it still always depends on the individual. Some are very helpful at the court and these are the ones we always seek out. At the Magistrates court, people usually wait until they see someone they know before they ask questions, even where they should be waiting. Court staff should be more proactive and offering help to people. The local level courts are less professional and make many mistakes in the law. They need more training, including on how to treat people coming to court. .</p>	
<p><b>Q4) Are you satisfied with the help/support/services provided by the courts? (I.e. service)</b></p>	
<p>Courts ask us to turn up on time and we go on time and they are not always on time themselves. Some Magistrates threaten to hold lawyers in contempt if they are late, and then they are late themselves. Good if everyone was on time. There’s not enough court rooms so even when all parties present, we have to wait often because there is no court room or magistrate not there. Sometimes defendants are delayed in the traffic too.</p>	<p>20% Marginal</p>
<p><b>Q5) Do you trust and have confidence in the courts?</b></p>	
<p>Clients usually feel something between those two: some are very scared and feel great trepidation coming into the court. Yet they also still have trust and confidence. Often it doesn’t turn out to be as bad as they thought it might be. People do generally respect the role of the courts. They are seen as having authority and legitimacy and less corrupt than others in the government.</p>	<p>40% Satisfactory</p>
<p><b>Q6) Do you think the courts are accessible? (I.e. bringing cases to the court)</b></p>	
<p>The courts have been trying to reach out to people and they are trying to get more access closer to the people. But the practical obstacles are so great. The Courts are trying to create more court circuits to go out to the province areas but sometimes these are cancelled or people are not clear if they are coming or which cases will be dealt with. At least half the court circuits are cancelled and even if they all went ahead there would not be enough. . For example, an old man came to me in Magistrates court. He said ‘This is the second time I came here. I was told by police and the lawyer that my case has been sent to the Magistrate for a particular day but then I never see my name on the list.’ How can the court make the case listing more accessible so people do not waste their time and money coming to the court when their case is not going to be dealt with? There is often a problem with listing processes. Perhaps the clerks do not record the names properly when the Magistrate makes the order, but there’s definitely a problem with the way cases are scheduled and listed. In one case, there was a warrant of arrest issued by the Court which was executed, but when they brought the person the court couldn’t find the case file.</p>	<p>20% Marginal</p>
<p><b>Q7) Do you think the courts are just? (I.e. impartial decisions)</b></p>	
<p>Sometimes the oral ruling has been completely different from the written one. Eg Written judgement is an acquittal and the oral judgement a conviction. This is very confusing. Sometimes legal mistakes are made when judges conduct cases like a re-trial when there has already been an acquittal. Generally, the court outcome might be favourable but enforcement of the orders is very bad and takes so long. Enforcement in rural areas is almost non-existent and not very practical. And there is not proper monitoring of enforcement. This is especially when it comes to</p>	<p>30% Fair</p>



<p>maintenance cases. Many respondents just ignore the orders safe in the knowledge that nothing further will happen. On sentencing, there is too much leniency for rape cases compared to Fiji where the average sentence is higher. We have a new law on all sexual offences which recognises the problem of low sentences by the courts. The judges take into account things they shouldn't to mitigate the offence. Low sentences are not going to deter that person from doing it again, or others.</p>	
<p><b>Q8) Do you think the courts are efficient? (I.e. are matters processed quickly?)</b></p>	
<p>We always have problems with delays. Cases committed to the High Court take a long time to be listed and there are big backlogs. It always takes years. There needs to be a thorough assessment of backlogged cases to fast track and streamline the management of cases, so the simple ones have a different queue so they are not stuck for protracted periods behind the more complex ones. There have been cases where the person has been remanded for more than 2 years and got a sentence shorter than the period of remand. No one has ever applied for compensation for this. In juvenile cases, there needs to be a separate court and an accelerated process.</p>	<p>20% Marginal</p>
<p><b>Q9) Do you think the courts are responsive? (I.e. understand individual people's needs)</b></p>	
<p>No, they are not responsive. They Just keep making the same mistakes over and over. The courts are not actively problem-solving. Often no match between the comments and the actual sentence. Quite common. Not responsive in improving the conditions of the justice system: the courts need renovation of facilities and additional court houses.</p>	<p>10% Poor</p>
<p><b>Q10) Are there any other comments you wish to make about how accessible, just, efficient, and responsive court services are in your country?</b></p>	
<p>There should be more investment in efficiency and accessibility, especially on case management and preventing adjournments. Resources are always an issue. The state cannot provide justice on its own. There should be more coordinated working between state, custom and religion. That's the only way we can achieve justice with limited resources and gives us the chance to share the responsibility for justice. There should also be more accountability for bad judging, either the decisions or the way judges speak to people.</p>	

**4. Tokelau, 10 May 2017**

<p><b>Q1: To what extent do you think that vulnerable and/or marginalised court users understand their legal rights?</b></p>	<p><b>Ranking &amp; Descriptor</b></p>
<p>A number of community workshops have been held by courts + police on rights / court processes, however, it seems that the community largely still does not know their rights / understand how to protect or enforce these.</p> <p>While opinions varied somewhat, largely respondents indicated that vulnerable groups do not know their rights, or find it difficult to protect/enforce them.</p> <p>Several times it was reported that police did not allow parents / guardians to be present when interviewing a minor.</p>	<p>10% Poor</p>



<p><b>Q2: Do you think that vulnerable and/or marginalised court users are confident to exercise their legal rights in court?</b></p>	
<p>Women, youth, and children were commonly identified.</p>	
<p><b>*Additional question listed as Q3 by adviser: Are people in these vulnerable and/or marginalised groups able to go to the court(s) and advocate for their rights?</b></p>	
<p>Largely members of the community are not really aware of their rights despite some community awareness-raising being undertaken by the courts and police. There is inconsistent information provided (by both men and women consulted) regarding the incidence of gender / family violence. Indications were repeatedly given that GFV has declined in recent years (a potential reason given for this was an increase of awareness). This notwithstanding, further information (possibly better collected by a local / female expert) may be warranted to delve in to this area more effectively.</p> <p>Culture dictates that women and young people do not have the ability / are not culturally able to speak out (they are ‘scared to upset / communicate’). This seems to also impact on their ability to communicate issues, with the police, and in court.</p> <p>Appeal rates are <b>very</b> low - it seems that there have only ever been 2 appeals in all of Tokelau (this is despite the Law Commissioner advising defendants of their right to appeal. It is difficult to ascertain why this is, though discussions indicate that: cultural aspects (see immediately above) influence this; it is likely they defendants may not really understand the appeal process; there is a lack of confidence in the appeal process and Appeal Committee Members are members of the Taupulega (Council of Elders); and / or ‘they can’t be bothered’.</p> <p>Low appeal rates are concerning as there are clear areas where appeals are needed / appropriate. One example is cases of under-age drinking. There are numerous instances where there is a conflict between the village / Taupulega regulations (drinking age = 20 or 21) and the national law (drinking age = 18) - other examples apparently also exist. Where there is a conflict, the national law takes precedence. This notwithstanding, numerous cases are heard by the Commissioners / courts that result in individuals that are legally allowed to drink under the national laws being convicted of a criminal offence on the basis of the village / Taupulega regulations.</p>	<p>10% Poor</p>
<p><b>Q3: Do court users think that judicial and court officers act professionally?</b></p>	
<p><b>Court Officers:</b> Largely yes, in the execution of their court-specific duties. Roles are somewhat blurred, however, with 2 court clerks also being members of the Taupulega (Council of Elders) <i>and</i> members of parliament. Additionally, the third court clerk is recently appointed (without any hand-over from the previous court clerk) and is still awaiting the appointment of the Commissioner - so no cases are currently being heard. There are issues with ‘stand-in’ clerks (when the court clerk is not available) - many / most are not trained and uncertain as to their role.</p> <p><b>Judicial officers:</b> Information is limited as only one Commissioner is currently sitting (one has not yet been formally appointed after hiatus of almost a year, and another Commissioner has been sick for an extended period - over 8 months). There were differing opinions, though some example were given where the Commissioner became ‘angry’ in court; or where he relied on the ‘assessors’</p>	<p>30%</p>



<p>(members of the Taupulega that were to provide culture-related advice) when making a decision. Inconsistency in decisions/ sentencing was also identified as being an issue. There are public perception issues with: two Commissioners also being members of the Taupulega; and that Deputy Commissioners are a member of parliament. Deputy Commissioners often do not hear any cases when the Commissioner is not available (being, it seems, too busy / uncertain as to their role).</p>	
<p><b>Q4: Are court users satisfied with the help/support/services provided by the courts?</b></p>	
<p>Given the context that there is currently only one Commissioner is currently sitting and that there has been a significant delay in consistent court sitting / hearing cases in 2 of the 3 courts. This situation has resulted in limited or no cases being filed in 2 of the 3 jurisdictions (backlogs of cases to be registered by the police / heard range been 30-60 cases, almost a full year’s case load for one of the courts).</p>	<p>10% Poor</p>
<p><b>Q5: Do court users trust and have confidence in the courts?</b></p>	
<p>In light of the above situation, respondents indicated that confidence in the courts is low. Concerns about separation of powers exist.</p>	<p>10% Poor</p>
<p><b>Q6: Do court users think the courts are accessible?</b></p>	
<p>Physically yes - people can get to court, though at times there are issues with ‘heavy’ people or those with a disability - though then the court hearing can / is moved to another location. There are no court filing / case registration fees which enables access to the courts.</p> <p>There are, however, reasonably limited civil cases, and almost no appeals (see also some of the comments noted in response to <i>Question 3</i>). Further, the High Court of Tokelau does not sit / provide a leadership role to the courts.</p>	<p>40% Satisfactory</p>
<p><b>Q7: Do court users think the courts are just?</b></p>	
<p>Some concerns were raised with regards to bias / closeness of the Commissioners to the community / the parties in cases.</p> <p>See also some of the comments noted in response to <i>Question 5: Judicial Officers</i>.</p>	<p>30% Fair</p>
<p><b>Q8: Do court users think courts are efficient?</b></p>	
<p>Decisions are made quickly / expeditiously (note: about 80-90% of cases are alcohol-related criminal cases).</p> <p>Delay with regards to hearings was however also raised with respect to the long delays in hearing cases in the 2 courts where Commissioners have not sat for some time (see also comments noted in response to <i>Question 5: Judicial Officers</i>).</p>	<p>30% Fair</p>
<p><b>Q9: Do court users think the courts are responsive?</b></p>	
<p>A number of respondents included the police in the ‘courts’ and indicated that the police were not efficient. Police and others consulted indicated that it was difficult to get people to report cases to the police and / or give evidence to the police when they investigate an incident (being ‘in the family’ / cultural issues were reported as often being the reason for this).</p>	<p>30% Fair</p>



<p>Delay in hearing case was again noted where the Commissioners were not active / appointed. It was generally thought that court clerks were responsive.</p>	
<p><b>Q10: Are there any other comments you wish to make about how accessible, just, efficient and responsive court services are in your country?</b></p>	
<p>There was limited / no awareness of a code of conduct for Commissioners (though one exists) and so it seems that there is a perception that performance / conduct may be more transparently addressed so that the court’s job is done more appropriately. Note: there does not seem to be a complaints handling mechanism.</p> <p>Respondents indicated that there is confusion between village / Taupulega regulations and the national law - hence, greater clarity / awareness is needed as to what the correct position is.</p> <p>Independence issues (Deputy Commissioners [fai pule], in particular) were raised by several respondents. It seems from discussions that direct interference with the courts is limited / does not really occur, indirect interference (via the application of village / Taupulega regulations) does occur.</p> <p>Accused are not represented in court / have no access to legal advice prior to a hearing, and so generally are not really aware of what is happening and / or do not speak up in court.</p> <p>Commissioners - while full-time appointments - do not seem to be working full time in the court.</p> <p>With having a new Commissioner, training would be valuable.</p>	

**5. FSM, 26 May 2017**

<p><b>Q1: To what extent do you think that vulnerable and/or marginalised court users understand their legal rights?</b></p>	<p><b>Ranking &amp; Descriptor</b></p>
<p>All agreed by all that most/most in the community (a) do not understand the function of courts and (b) do not know their fundamental legal rights. This is more acute in remote communities on Pohnpei and among the outer islands. Accordingly it is difficult to differentiate between the entire community and those who are vulnerable, but examples of these groups characteristically include women, the elderly, children, foreign workers and refugees/trafficked. All similarly agreed that understanding the role of the bar and using attorneys mitigate these problems, but access to representation is also restricted to the centre and better educated.</p>	<p>20% Marginal</p>
<p><b>Q2: Do you think that vulnerable and/or marginalised court users are confident to exercise their legal rights in court?</b></p>	
<p>As above. It is difficult to generalise. Confidence also varies from court to court (FSM SC is generally held in highest confidence, but this is very qualified, as below). State SCs command consistently less confidence owing to their lack of legal qualification and competence; some State judges are however well regarded though most are not. Confidence in Municipal courts varies from court to court –</p>	<p>20% Marginal</p>



some judges are dedicated and responsible community leaders, but most are criticised over their mishandling of conflicts of interest.	
<b>Q3: Do court users think that judicial and court officers act professionally?</b>	
Perceptions vary widely. All agreed that professionalism depends of the availability of training, which is characteristically lacking across this mainly lay judiciary where many judges in the state and municipal courts lack any qualifications whatsoever. Only some have completed the College of Micronesia Trial Counsellors Certificate (8 months part-time). ¾ FSM judges are law qualified but none have practised law and all lack procedural competence in managing cases. Delay is an endemic problem. Professionalism, the quality of service and public confidence is generally lowest in the state SCs – though again this varies from state to state, sometimes substantially. the practising attorneys are deeply critical of the professionalism and the lack of professional outlook of both judges and clerks, specifically including the FSM SC.	20% Marginal
<b>Q4: Are court users satisfied with the help/support/services provided by the courts?</b>	
The practising bar is consistently and highly dissatisfied with the quality of all court services, and their organisation, while the others are generally satisfied ('it's ok').	20% Marginal
<b>Q5: Do court users trust and have confidence in the courts?</b>	
Subject to the above, there are generally sound levels of trust and confidence in the independence and integrity of the courts; but not in their competence – mastery of law, procedure and provision of services. There are some isolated instances of corruption - including the CJ of Pohnpei SC who is presently facing impeachment and criminal proceedings but has refused to stand aside on the basis that the charges are 'political' and that he'll weather those in due course. Discipline of ethical infractions of both judges and attorneys is uniformly seen as being weak/non-existent. The FSM CJ has promised to introduce a CoJC within weeks to address this problem.	30% Fair
<b>Q6: Do court users think the courts are accessible?</b>	
Generally yes, access is not seen as being remarkably problematic subject to systemic barriers of custom (confining FSV to the home as a 'family matter'), cost (of attorneys and travel) and geography (particularly remote islands which may be 2-3 days distant by boat, and often lack any island court).	40% Satisfactory
<b>Q7: Do court users think the courts are just?</b>	
As above, see 1 and 5 in particular.	20% Marginal
<b>Q8: Do court users think courts are efficient?</b>	
Efficiency (delay) is seen as being tantamount problem, which is equal to unfair decision making arising from the failure to recuse owing to family interests, which is an endemic complaint at municipal level. Interestingly, attorneys complain	10% Poor



(sometimes) that the FSM SC recuses excessively, thereby compounding delay because overseas judges may then need to substitute.	
<b>Q9: Do court users think the courts are responsive?</b>	
Generally not; many commend PJSI’s current A2J and this M&E initiatives as being the first ever public outreach.	10% Poor
<b>Q10: Are there any other comments you wish to make about how accessible, just, efficient and responsive court services are in your country?</b>	
There are some good people. The FSM SC was seen as the regional leader in the 1990s, and older attorneys observe an ongoing decline of standards to the present time.	

**6. Niue 16, 20, 21 June 2017**

<b>Q1: To what extent do you think that vulnerable and/or marginalised court users understand their legal rights?</b>	<b>Ranking &amp; Descriptor</b>
<p>There is very little understanding of the concept of legal rights among Niueans who have always resided in Niue and an even lower level of understanding among minority groups such as other Pacific Islanders whose difficulties are further compounded by language. There are very few avenues by which to obtain this information as legal studies are not addressed at school, police may not fully explain rights to people charged and there are a limited number of legal advocates and no community legal centres or readily available information.</p> <p>There was a sense that the existence of rights (human and legal) is a “new thing”. A distinction was drawn in relation to land law which, at the local court level, is based predominantly in traditional land law. It was generally felt that Niueans who had always resided in the villages had a good understanding of land rights under the traditional system. This was contrasted to Niueans who returned from overseas (mostly NZ) who were more familiar with legal rights and procedures available through the Courts but had less understanding of the traditional land law.</p>	20% Marginal
<b>Q2: Do you think that vulnerable and/or marginalised court users are confident to exercise their legal rights in court?</b>	
<p>People in Niue without social standing, education and financial means are generally fearful and reluctant to initiate legal action. People feel vulnerable and are apprehensive of reprisal in a small community where everyone knows everyone.</p> <p>Some comments were made that people are confused about their rights, the process and consequences and don’t always obtain consistent information from registry staff. This makes them reluctant to use the legal system. There is a tendency to go to village pastors, village councillors or other respected people for informal dispute resolution processes.</p> <p>There were a number of anecdotal situations provided where litigants and their families had to engage overseas lawyers at huge cost to them where the other party had secured the only pro-bono lawyer available. Cost and concerns about</p>	20% Marginal





<p>enforcement were significant disincentives to people who might otherwise be sufficiently confident to exercise their legal rights in the court.</p>	
<p><b>Q3: Do court users think that judicial and court officers act professionally?</b></p>	
<p>People consider the High Court judges from NZ conduct proceedings in a professional manner but also accommodate local considerations to the extent possible. The concerns raised about the High Court judges relate to delays brought about by the 6 monthly sittings and adjournments due to uneven representation. There were also a few comments and confusion about when the judges took witnesses into “the little room” – ie. closed court verses open court. There was general acceptance that the local civil and criminal JPs and commissioners conduct proceedings professionally; however further training would assist capacity. These decision makers are not legally qualified whereas advocates for the parties may be legally trained.</p> <p>In relation to the land commissioners who are appointed by cabinet, there was acknowledgement that it is a very difficult job that most are reluctant to take on due to the small community. There is a shortage of land commissioners at present and there must be 5 of them sitting at a time. While people acknowledged that the requirement for a bench of five provided greater surety about impartiality, it did result in regular delays and adjournments where a bench could not be convened. There were several comments about police generally and particularly the police prosecutors not behaving in a professional manner, not understanding issues of conflict and lacking competence to prosecute complex matters. There is limited referral from the police to the Crown Solicitor’s Office regarding prosecutions. Some concerns were raised regarding competence and confidentiality of court registry (Department of Justice staff) but this was generally explained in terms of insufficient training and guidance. There was also a suggestion that treatment of clients varies and is particularly defensive in relation to newcomers to Niue.</p>	<p>40% Satisfactory</p>
<p><b>Q4: Are court users satisfied with the help/support/services provided by the courts?</b></p>	
<p>This seems to depend to some extent on whether people obtain the outcome they want or not. While it wasn’t expressed in forceful terms, it was apparent that there is room for improvement in the customer service provided by Court staff. Issues include availability, inconsistent information and fees, lost documents, attention to detail, perceived or real bias and lack of knowledge. Particular concerns were expressed about the time involved for the minutes of decision from the local court to be made available and the accuracy and comprehensiveness of the record, which is the basis for any appeal to the High Court. Legal processes are known for being stressful and lengthy.</p> <p>At the court level, some positive comments were made about the bench book now available to local court officers. Concerns were expressed about the lack of interpreters available for minority groups in court proceedings.</p> <p>At a High Court level, it is felt that the Court is not sufficiently aware of the enormous costs involved for parties when matters are adjourned where for example one party isn’t represented or the parties are asked to try mediation first. Sometimes the parties have had to come from overseas or pay for representatives</p>	<p>30% Fair</p>



<p>to come from overseas for nothing. A few comments were made about the lack of Court House (since the original court house was destroyed by the 2004 cyclone).</p>	
<p><b>Q5: Do court users trust and have confidence in the courts?</b></p>	
<p>People generally trust that the Court follows proper process and are happy to abide by the Court’s decision, however there is not the same confidence that decisions will be properly enforced. Particularly where AVOs, other family law and land eviction decisions are obtained, a number of participants said that police or relevant government officials either didn’t want to get involved in the matter due to the tendency to “shoot the messenger” or were confused about what their enforcement role was.</p> <p>Several people also mentioned a lack of trust that the police will prosecute matters they should, to the extent that there have been a number of private prosecutions successfully entertained by the High Court.</p> <p>There was some concern raised about the lack of age limits for members of the local court, some of who are quite elderly. Comments were also made about the local court JPs and Commissioners being “professional fence sitters” who are reluctant to make a partisan decision or “rock the boat”.</p>	<p>30% Fair</p>
<p><b>Q6: Do court users think the courts are accessible?</b></p>	
<p>There did not seem to be any concerns about physical access for people that live in Niue as all families have access to a car. However, several comments were made about the difficulties for people living in NZ (Niueans can automatically obtain NZ citizenship). It was estimated than at least half of the court actions involved parties from overseas. Disabled, mute/deaf people are represented by a spokesperson, family member, or agent.</p> <p>In terms of procedural accessibility, there is some frustration about clarity of information provided by registry staff. Sometimes incorrect forms or procedural advice are provided in relation to the particular issue presented. Sometimes, documents are not served in person and people have limited time to prepare for a hearing.</p> <p>There were mixed views about whether lack of representation impeded access. It can cause problems where the High Court require both parties to be represented where there are limited options and costs are likely to be incurred. At the Local Court level, people often wanted to represent and speak for themselves, particularly about land disputes.</p> <p>People are confused by the appeal process where leave is required for the appeal to be heard and people don’t understand why they have to pay a fee, do work to put forward their reasons for seeking an appeal and then don’t always get the opportunity to have the appeal heard.</p>	<p>30% Fair</p>
<p><b>Q7: Do court users think the courts are just?</b></p>	
<p>Yes people think that the High Court has a just process and outcomes based on the evidence and arguments put before it. However there are concerns about the fairness of what gets before the court and the sometimes inequitable position of the parties. Prolonged delay from adjournments, stays and injunctions may be considered unjust and/or confusing.</p>	<p>30% Fair</p>



<p>At the local court level, there is room for improvement in terms of capacity and legal knowledge for the process and outcomes to be considered as being consistently just.</p>	
<p><b>Q8: Do court users think courts are efficient?</b></p>	
<p>There seem to be delays at all stages of the process, initiating an action, obtaining necessary material to inform the action, getting the application before the court, awaiting the judgement and minute of reasons, appealing to the High Court if necessary and then the 6 monthly sittings and regular adjournments at that level. Missing documents were mentioned several times as impeding progress of matters, both at a preliminary stage to commence an action and throughout the life of a file.</p> <p>Great clarity about whether a matter should go directly to the High Court due to the nature/complexity of the matter or by party request would be of assistance. Ideally a legally qualified registrar of the court could make such decisions. An external mediation service to run in parallel with High Court sittings may also expedite matters.</p>	<p>10% Poor</p>
<p><b>Q9: Do court users think the courts are responsive?</b></p>	
<p>There is no evident holistic response from the Court as a consolidated body to existing and emerging community needs. Preliminary work is being conducted to prepare public education materials, checklists and flowcharts which would assist enormously. Responsiveness is on a case by case, mechanistic level and varies in substance as between the registry, local and high courts.</p> <p>Comments were made that responsiveness is consistent with the limitations placed on the Court staff, including being understaffed and/or ill equipped for the job. Training was considered to be necessary for both registry and local court officers. Record keeping and filing was considered to be inadequate and paper based, such that often response times were delayed. The genealogical data maintained by the Lands Registrar is critical for land applications and it is not always easy to obtain this data as only certain officers can use the software and a better format for printing those reports would be of great assistance.</p>	<p>40% Satisfactory</p>
<p><b>Q10: Are there any other comments you wish to make about how accessible, just, efficient and responsive court services are in your country?</b></p>	
<p>Court action is seen as a last resort and many remain very reluctant to engage in the legal process.</p> <p>Anecdotal recounts were provided about young people in particular pleading guilty to avoid appearing before the court were given. Concerns were raised about the tendency and encouragement given by court officers, police and family to just plead guilty rather than contesting a charge as people don't necessarily appreciate the consequences. Where pleading guilty involves a conviction, this will prevent any future immigration and some employment options that the person may have, but they are not informed of such consequences at the appropriate time.</p> <p>The only legal firm in Niue is prohibitively expensive for the average person (\$250 p/hour for court work and preparation where the average wage is approx. \$20,000 p/a).</p>	



<p>Lack of interpreters and ad-hoc recording and transcribing systems are of increasing concern particularly as new ethnic groups are settling in Niue. As many of the local court matters are heard in Niuean, it is unclear how these records are recorded and how the veracity of the record can be confirmed for the purpose of an appeal to the High Court.</p>	
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**7. Palau, 13 June, 2017**

<p><b>Q1: To what extent do you consider that vulnerable and/or marginalised court users understand their legal rights?</b></p>	<p><b>Ranking &amp; Descriptor</b></p>
<p>People do not usually understand their legal rights until such time they are required to enter the legal system no matter what the case is. When they do they have a lawyer who knows about rights.</p> <p>Marginalised people are more aware and informed than the general public, especially people in the rural areas because they have a disability or need and the services and information for this group is substantial, often better than for the general population. They know their rights better than we do.</p> <p>None the less, there is a need for an outreach/awareness program to better inform the population about their legal rights.</p>	<p>50% Good</p>
<p><b>Q2: Are vulnerable and/or marginalised court users confident to exercise their legal rights in court?</b></p>	
<p>If they have a support system behind them they will be confident. Also affordability plays an important role, if a person hires a private attorney we know that they have money plus they are more confident to proceed with a case or in line with this question-to exercise their legal rights in court</p>	<p>40% Satisfactory</p>
<p><b>Q3: Do you think that judicial and court officers act professionally?</b></p>	
<p>Yes – all members of the group agree that the judicial and court officers do act professionally</p>	<p>60% V Good</p>
<p><b>Q4: Are you satisfied with the courts?</b></p>	
<p>Yes, but an equivocal yes, (if we knew about the help/support/services provided, maybe we can agree more). The population is generally not aware of what help/support and services the court provides until they enter the system.</p>	<p>50% Good</p>
<p><b>Q5: Do you trust and have confidence in the courts?</b></p>	
<p>There is confidence and trust in some areas but not in others i.e: sentencing of drug offenders and land issues. Punishment and offences not going together, drug offenders get lenient sentences and the public don't understand. The plea bargain system allows offenders to get a lenient sentence and the public don't like it that serious offenders don't get punished appropriately.</p> <p>With respect to land issues there are western judges ruling on traditional issues. This is not appropriate and at least there should be detailed training about custom if western judges are to be used.</p>	<p>30% Fair</p>



<p>There is a huge difference between traditional knowledge/customs and the western legal system and the public would like to see more of a role for custom before having to go to the formal system.</p> <p>There are cases where a party wins the Chiefly Title, however in reality no one follows the ruling even if they have the legal documentation and winning a case over indigenous people not having any documentation. The court is seen as inept as the people don't believe and follow the ruling and there is no way to enforce it. This is how the public tend to lose trust and confidence in the system, not the individuals in the court itself.</p>	
<p><b>Q6: Do you think the courts are accessible?</b></p>	
<p>Generally, the court is very accessible</p> <p>There is the public defender's office and the Micronesian Legal Services and local lawyers and court fees are not much</p> <p>Noted the court is getting a lift for those unable to negotiate the stairs in the court in Koror.</p>	<p>60% Very good</p>
<p><b>Q7: Do you think the courts are just?</b></p>	
<p>Yes, very much so except there is a problem in the land court. There is a need for training of Foreign Judges on Palauan traditions/customs to address customary disputes as they cannot give just decisions if they don't know the traditions.</p>	<p>50% Good</p>
<p><b>Q8: Do you think the courts are efficient?</b></p>	
<p>People might have different views based on their case, some would just agree to plea out of the case because it's dragging too long, for months so just to end the process. Also, there is pressure on defendants to plea guilty just to stop the shame of having their name heard over the radio. There is a local private radio station that reads out the court lists and defendants are embarrassed and want to save their reputation, so they plead guilty in order to stop the stress and shame.</p> <p>People dying before their cases are heard or disposed, this is not efficient and it should not happen. Also, there are many cases in the land court and no one knows what is happening to them. Families don't know if their leases are going to be renewed and can't plan for the future. If the parties knew how long it would be before the case is coming up, then they could plan for the future. As it is there are a lot of people with cases and no one knows if it will be months or years and years before the case is determined.</p>	<p>20% Marginal</p>
<p><b>Q9: Do you think the courts are responsive?</b></p>	
<p>In general yes, the services are prompt and the staff are helpful.</p> <p>However, there is a general lack of awareness comes about what court services are available. If a person doesn't have anything to do with the courts, the law or the legal system they wouldn't know if it is responsive or not. Once you enter the system it seems to be responsive.</p> <p>There used to be a lawyers TV programme that talked about the law and it was really interesting and helpful. They don't have it any more.</p>	<p>30% Fair</p>



<b>Q10: Are there any other comments?</b>	
Do a survey or suggestion box to get feedback from the general public or those who use the courts Awareness and public education is highly sought.	

**8. Tonga, 14 June, 2017**

<b>Q1: To what extent do you consider that vulnerable and/or marginalised court users understand their legal rights?</b>	<b>Ranking &amp; Descriptor</b>
<p>The majority of focus group participants felt that <i>most people don't understand their legal rights</i>, although a few participants said that many people do understand their legal rights. It was noted that people with psycho-social impediments (including addiction) and intellectual disabilities face particular challenges, in part because information is not produced in a form that is accessible to them (e.g. in braille). Information on legal rights was said to be less accessible in the outer islands, although many participants commented on the general lack of information on legal rights.</p> <p>One participant noted that the legal literacy program provided by RRRT had been very useful for those who attended and could be tailored for the community.</p> <p>Whilst not directly related to the courts, it was noted that young women lack an understanding of various issues surrounding parental consent, such as the age at which they have a right to access contraception or seek treatment for STIs without parental consent.</p> <p>A particular lack of awareness about children’s rights was raised, sparking discussion about the tension between Western human rights and traditional/cultural values which require children to respect their parents.</p> <p>It was noted that knowledge of legal rights is in part dependent upon education.</p>	20% Marginal
<b>Q2: Are vulnerable and/or marginalised court users confident to exercise their legal rights in court?</b>	
<p>With the exception of one participant, focus group participants overwhelmingly felt that vulnerable and/or marginalised court users are <i>not confident</i> exercising their legal rights in court. Participants noted that the people with whom they work (women and disabled people) found the court experience scary, unfriendly and disrespectful. One participant referred to a client as having described court like “being imprisoned”.</p>	10% Poor
<b>Q3: Do you think that judicial and court officers act professionally?</b>	
<p>One participant made the strong point that judicial officers are not corrupt. Other participants commented on the lack of magistrates’ legal training and lack of knowledge about human rights. It was suggested that new magistrates need to be recruited through a transparent process with a requirement for legal training. A number of people noted that women using the courts feel “looked down on” or disrespected and that the way in which magistrates speak to victims is not acceptable. For example, it was said that magistrates often ask victims questions in</p>	20% Marginal



<p>a scolding and discouraging way and that judgements about character are sometimes made on the basis of physical appearance alone (e.g. tattoos).</p>	
<p><b>Q4: Are you satisfied with the courts?</b></p>	
<p>Overwhelmingly, focus group participants were <i>not satisfied with the courts</i>, although one member felt that the courts are performing well and all problems lie with the police. Collectively, despite reservations about the courts, participants stated a preference for obtaining protection orders from the court rather than police safety orders, largely due to concerns about the police response.</p>	<p>20% Marginal</p>
<p><b>Q5: Do you trust and have confidence in the courts?</b></p>	
<p>The vast majority of focus group participants did <i>not trust or have confidence in the courts</i>.</p>	<p>10% Poor</p>
<p><b>Q6: Do you think the courts are accessible?</b></p>	
<p>Focus group participants described lack of understanding and fear as the main barriers to accessing the courts. They noted that people don't want to use the courts to avoid shame and frightening court experiences.</p>	<p>20% Marginal</p>
<p><b>Q7: Do you think the courts are just?</b></p>	
<p>Most focus group participants <i>did not think that the courts are just (fair)</i>. Several examples were given of bias impacting on decisions and on the way in which Magistrates talk to victims. An example was given of bias impacting on the way in which Magistrates talk to female lawyers. It was also suggested that Magistrates are biased because they know everyone, have family connections and are familiar with people's history. Many of them are also said to openly state that family violence is a family matter.</p> <p>Comments were made about sentencing, with a collective view that sentences for the perpetrators of family violence are too mild. One person noted that often minor penalties are given to perpetrators who should be jailed for life.</p>	<p>10% Poor</p>
<p><b>Q8: Do you think the courts are efficient?</b></p>	
<p>One focus group participant thinks that the courts are efficient, noting the need to separate delays caused by the police from court delays. However, the majority of focus group participants <i>do not think that the courts are efficient</i>. Participants spoke of the frustrations experienced by the people that they work with, noting that cases take too long, which is one reason that people withdraw their cases (they become tired of waiting).</p>	<p>10% Poor</p>
<p><b>Q9: Do you think the courts are responsive?</b></p>	
<p>For the reasons outlined above, focus group participants <i>did not think the courts are responsive</i>. Disabled people don't have equality before the law, neither do women. People do not feel understood and they feel judged.</p>	<p>10% Poor</p>
<p><b>Q10: Are there any other comments?</b></p>	
<p>Focus group participants recommended that:</p> <ul style="list-style-type: none"> <li>• New magistrates with legal skills be recruited</li> <li>• Some women magistrates be recruited</li> <li>• Magistrates receive human rights training</li> </ul>	



<ul style="list-style-type: none"><li>• An opportunity be provided for NGOs to share their views and experiences with Magistrates</li></ul> <p>It was apparent that the procedures for making complaints about the judiciary are not well known.</p>	
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## Annex B – Locally-Led Activities

An analysis and survey was undertaken to establish the number of judicial development-related activities led by local actors in each PIC during the preceding 18 months. Against that data, PJSI undertook an analysis of the number of activities it had led along with other external actors active in each PIC. While PJSI was not able to gather precise data about the number of activities each of the other external actors led, for the purpose of this assessment, it was assumed that each actor had led one activity in the PICs they are active within. The national figure was derived from dividing the total number of activities conducted by the number of those that were locally led (e.g. Cook Islands where 2/11 activities were led locally). The local figures were added together, divided by the total number of participating PICs in order to arrive at a regional figure. This demonstrated that at present, on average **18% of activities are locally led across the region**. It is noted that some PICs may have underreported their locally-led activities. Levels may therefore be higher.

PIC	Locally led activities	PJSI/other donor-led interventions	% locally-led activities
Cook Islands	2	1. ToT	18
		2. PME w/s	
		3. CJ Forum	
		4. CJ Forum	
		5. Accountability	
		6. RRRT	
		7. UN Women	
		8. PPDVP	
		9. AU AGD	
FSM	LIF conference	1. PME w/s	11
		2. CJ Forum	
		3. CJ Forum	
		4. A2J visit	
		5. TOT	
		6. Accountability	
		7. RRRT	
		8. UN Women	
Kiribati	4	1. PME w/s	29
		2. CJ Forum	
		3. CJ Forum	
		4. TOT	
		5. Accountability	
		6. RRRT	
		7. ComSec	
		8. UN Women	
		9. PPDVP	
		10. AU AGD	
Marshall Islands	2	1. PME w/s	20
		2. CJ Forum	



		3. CJ Forum	
		4. TOT	
		5. Accountability	
		6. Local orientation	
		7. RRRT	
		8. UN Women	
Nauru	0	1. PME w/s	0
		2. CJ Forum	
		3. CJ Forum	
		4. TOT	
		5. Accountability	
		6. RRRT	
		7. UN Women	
		8. MFAT	
Niue	0	1. PME w/s	0
		2. CJ Forum	
		3. CJ Forum	
		4. TOT	
		5. Accountability	
		6. RRRT	
		7. UN Women	
Palau	2	1. PME w/s	20
		2. CJ Forum	
		3. CJ Forum	
		4. TOT	
		5. Efficiency visit	
		6. Accountability	
		7. RRRT	
		8. UN Women	
PNG	5	1. PME w/s	38
		2. CJ Forum	
		3. CJ Forum	
		4. TOT	
		5. Career Pathway	
		6. Accountability	
		7. RRRT	
		8. WB J4P	
		9. AU AGD	
Samoa	LIF evidence w/s	1. PME w/s	11
		2. CJ Forum	
		3. CJ Forum	
		4. TOT	
		5. Accountability	
		6. RRRT	
		7. UN Women	



		8. PPDVP	
Solomon Islands	2	1. PME w/s	15
		2. CJ Forum	
		3. CJ Forum	
		4. TOT	
		5. HR toolkit visit	
		6. Accountability	
		7. RAMSI	
		8. RRRT	
		9. UN Women	
		10. WB J4P	
		11. AU AGD	
Tokelau	2	1. PME w/s	22
		2. CJ Forum	
		3. CJ Forum	
		4. PM visit	
		5. TOT	
		6. Accountability	
		7. UN Women	
Tonga	4 (training lawyers)	1. PME w/s	29
		2. CJ Forum	
		3. CJ Forum	
		4. TOT	
		5. GFV toolkit visit	
		6. Accountability	
		7. RRRT	
		8. UN Women	
		9. PPDVP	
		10. MFAT (2x SC judges)	
Tuvalu	2	1. PME w/s	18
		2. CJ Forum	
		3. CJ Forum	
		4. TOT	
		5. Accountability	
		6. DFAT justice program	
		7. RRRT	
		8. UN Women	
		9. AU AGD	
Vanuatu	4	1. PME w/s	27
		2. CJ Forum	
		3. CJ Forum	
		4. TOT	
		5. Accountability	
		6. DFAT justice project	
		7. RRRT	



		8. ComSec	
		9. UN Women	
		10. WB J4P	
		11. PPDVP	

## Annex C – Estimate of Vulnerable & Marginalised Groups

Population type	% of total population	Of total population (=9,900,000)	Estimate of vulnerable / marginalised people by group/location	
All – urban	100%	5,445,000	50%	2,722,500
All – rural		4,455,000	90%	4,009,500
Women – urban	25%	1,100,250	25%	275,062
Women – rural		1,355,750	NA	0
Under 15s - urban	34%	1,514,700	25%	378,675
Under 15s - rural		1,851,300	NA	0
Disabled – urban	17%	757,350	75%	568,012
Disabled - rural		925,650	NA	0

From the above analysis, it is not though possible to supply totals as for example, some women or children may also be disabled. To total the figures as supplied would likely have led to some double-counting.

These figures do not include other vulnerable and marginalised groups identified by research and during the FGD, because they are not available. These groups comprise:

1. Women who fear reprisal from their husbands for reverting to the formal legal process;
2. Refugees;
3. Migrant workers; and
4. People who have been trafficked.



## Annex D – Baseline Data Augmentation

### Approach

To maximise the depth, breadth, reliability, validity and robustness of data informing PJSIs Baseline, a series of focus groups took place with stakeholders in PICs in the first half of 2017.

To maximise the quality of this data using triangulation, stakeholders included two categories of individuals comprising a broad range of informed stakeholders:

Category 1: **Formal justice sector agents:** Law Ministries, Law Reform Commissions, Bar Associations, Law Societies, Police, Corrections and bi/multilateral projects/agencies. Representatives from the Court are expressly excluded to maximise candour among respondents.

Category 2: **Non-Government Organisations / Community-Based Organisations:** representing women, children, disabled people and other vulnerable and/or marginalised court users identified by local counterparts.

### Method

PJSI team members convened focus groups while visiting PICs to undertake various PJSI-related inputs. Prior to each visit, the National Coordinator was asked to arrange the meetings with each category of respondents on date/s agreed with the visiting PJSI team. To ensure consistency of data, each discussion included asking the same questions (below).

### Plan

The Focus Group Discussions took place as follows:

PIC	Date, 2017	Visiting Team member
Vanuatu	February	Helen Burrows
Solomon Islands	April	Carolyn Graydon
Samoa	April	Cate Sumner
Tokelau	May	Lorenz Metzner
FSM	May	Livingston Armytage
Tonga	June	Abby McLeod
Niue	June	Katie Stride
Palau	June	Jennifer Akers

**Objective:** Gather perceptive data about justice and the court from informed court users and representatives of people who may be vulnerable to abuses of their rights and/or marginalised from the formal justice system.

**Purpose:** Conduct focus group meetings with in-country stakeholders in PICs to provoke discussion and elicit views about justice and the courts.

#### Questions:

The critical features of each question to ensure respondents understand are highlighted as follows:

**Q1: To what extent do you think that vulnerable and/or marginalised court users understand their legal rights?**



**Q2: Do you think that vulnerable and/or marginalised court users are confident to exercise their legal rights in court?**

**Q3: Do court users think that judicial and court officers act professionally?** (Professionally means that they speak to, and treat everyone courteously and fairly, they provide clear information and guidance to help people through the court process and they know the law and court process and they make impartial decisions according to law)

**Q4: Are court users satisfied with the help/support/services provided by the courts?**

**Q5: Do court users trust and have confidence in the courts?**

**Q6: Do court users think the courts are accessible?** (Accessible means that people can get to a court; easily file a case and easily navigate the court process)

**Q7: Do court users think the courts are just?** (Just means that the process and outcomes are fair – that is: independence, impartiality, integrity, propriety, equality, diligence, competent)

**Q8: Do court users think courts are efficient?** (Efficiency means that there are no unnecessary delays, or delays people do not understand in hearing and disposing of cases)

**Q9: Do court users think the courts are responsive?** (Responsive means that judicial and court officers understand and respond appropriately to people’s legal needs)

**Q10 Are there any other comments you wish to make about how accessible, just, efficient and responsive court services are in your country?**

The questions relate to the M&E Framework as follows:

Outcome/Target	Indicators/Target	Related Q
Long terms outcome (yr 5)	% of court users who are satisfied with courts or consider them accessible, just, efficient and responsive	Qs 6, 7, 8, 9
Goal target	15% increase in public trust and confidence	Q5
Long-term target	20-50% increase in court users’ satisfaction	Q4
Medium term outcome (yrs3-4)	Extent to which court users consider that PIC courts exhibit responsive and just behaviour and treat people fairly and reasonably	Qs 9, 7
Short term outcome (yrs1-2)	The extent to which the needy understand, and are confident to exercise their rights	Qs 1, 2
	Extent to which officers deliver excellent service	Q 3



### Annex E - Results Diagram

**Goal: Building fairer societies through more accessible, just, efficient, and responsive court services.**

Improved judicial systems across the Pacific

MFAT Programme Outcome

**LTO 1.0: Leadership:** Judicial leaders are leading and managing change locally.

**LTO 2.0: Performance:** Court services are more accessible, just, efficient & fair

Long-term Outcomes

**MTO 1.1:** Increased capacity & progress towards leading & managing change

**MTO 2.1:** Court services are more accessible, just, efficient and responsive.

Medium-term Outcomes

**STO 1.1.1:** Improved capacity of *judicial leadership* to assess needs, plan, own & lead judicial development locally.

**STO 2.1.1:** Marginalised & vulnerable groups better able to *access justice* in and through courts.

**STO 2.1.2:** PICs operate with a higher level of *professionalism*

**STO 2.1.3:** PICs exhibit more responsive & just behaviour & treatment that is fair & reasonable (*substantive justice*).

**STO 2.1.4:** Cases are disposed of more efficiently (*procedural justice*).

Short-term Outcomes

**Key Output 1: Regional Leadership:** Chief Justices trained in leadership & associated tools provided.

**Key Output 2: National Leadership:** National judicial leaders trained in leadership & change management & associated tools provided.

**Key Output 3: Leadership Incentive Fund:** Local activities conducted through training & funding provided.

**Key Output 4: Access to Justice:** PICs courts committed to improving access to justice, people trained & relevant tools provided.

**Key Output 5: Professional Development:** Judicial / Court Officers trained in priority areas of knowledge skill & attitude.

**Key Output 6: Localising Professional Capacity Building:** PICs trained and equipped with resources to address needs locally.

**Key Output 7: Institutionalising Professional Development:** A modality to institutionalise cost-effective / sustainable in-region training.

**Key Output 8: Human Rights:** PICs courts committed, trained & equipped with tools to deliver justice aligning with human rights.

**Key Output 9: Gender and Family Violence:** PICs committed, trained & equipped with tools to better respond to gender & family violence issues.

**Key Output 10: Efficiency:** PIC courts trained & equipped with the tools & capacity to improve efficiency in the administration of justice.

**Key Output 11: Accountability:** Court performance monitored, evaluated & reported on to improve accountability

Key Short-Term Outputs



## Annex F - Results Management Table

Aim <sup>57</sup>		Indicators	Baseline (Jul 2017)	Target	Methodology & Data Source
Goal	Building fairer societies through more accessible, just, efficient and responsive court services.	% of public trust and confidence in partner courts <sup>58</sup>	27.5% of court users have trust/confidence in PIC courts.	10% increase in public trust and confidence	Court user perception survey conducted by partner courts, supported by FCA.
		Improvement in rankings in World Bank's Governance Indicators (Rule of Law & Voice and Accountability)	Spans from <i>moderate</i> (Tuvalu, Palau and Vanuatu) to <i>low</i> in the other PIC. <sup>59</sup>	Improvement in overall score	WGI Annual Reports.

<sup>57</sup> The term 'Aim' is provided by MFAT, but refers to 'Outcomes' as defined in the Results Diagram.

<sup>58</sup> MFAT's strategic Results Framework Indicators – Law and Justice, supplementary indicator.

<sup>59</sup> See Annex A for a table of latest rankings from 2015 and the concepts measured.





Aim <sup>57</sup>	Indicators	Baseline (Jul 2017)	Target	Methodology & Data Source	
Long-term outcome (YR5)	1: Judicial leaders are leading and managing change locally	The extent to which change is driven locally <sup>60</sup>	On average, 18% of change is driven locally	15% increase in locally driven change <sup>61</sup>	PICs & MEA assessment against defined measures.
	2: Court services are more accessible, just, efficient and responsive.	% of court users who are satisfied with courts or consider them accessible, just, efficient and responsive	25% of court users are satisfied with the courts / consider courts to be adequately responsive, just, fair and reasonably.	10% increase in court users' satisfaction	Court user perception survey conducted by partner courts in concert with FCA
		Number of people trained/supported to strengthen PICs courts <sup>62</sup>	No people have been trained by PJSI	1,139 people trained / supported, 30% of whom are women (YR5: 153, YR4: 203, YR3: 271, YR2: 276, YR1: 236)	Collated figures from all PJSI and local training / advisory activities.

60 Indicative measures include; existence and active operation of National Judicial Development Committees (however named), existence and active implementation of local strategic development plans (however named), number of local trainers and the extent to which they are encouraged/able to conduct training, number of local training/development activities conducted, number of locally inspired/led changes implemented, capacity to assess needs, design, implement, monitor and evaluate local activities. Success is measured by internal assessment of the following 5 OECD-DAC: 1) Did the project address the identified need? [relevance & effectiveness] 2) Did it demonstrably achieve its stated objective/s and (overtime) deliver its intended result/s? [impact] 2) Was it delivered on time and within budget? [efficiency] 3) Will the outcomes and results live on over time? [sustainability].

61 As above.

62 MFAT's Strategic Results Framework Indicators – Law and Justice, indicator 8.1D. This data will comprise in-person days, the number of people successfully completing the training both provided by PJSI and locally by partner courts (where the latter data is available), gender-disaggregating and distinguishing the types of court actors (eg judicial and court officers). The figures will be presented as a percentage of total population. This also addresses MFAT Strategic Results Framework Indicators – supplementary indicators.



Aim <sup>57</sup>	Indicators	Baseline (Jul 2017)	Target	Methodology & Data Source		
Medium-term outcome (YR3-4)	1.1 Increased capacity & progress towards leading / managing change locally	Extent to which change is driven locally <sup>63</sup>	On average, 18% of change is driven locally	15% increase in locally driven change <sup>64</sup>	PICs & MEA assessment against defined measures.	
	2.1 Court services are more accessible, just, efficient and responsive	Extent to which court users consider that PIC courts exhibit responsive and just behaviour and treat people fairly and reasonably.	19% of vulnerable and marginalised people have knowledge of & confidence to assert their legal rights.	10% increase in understanding / confidence <sup>65</sup>	Court user perception survey conducted by partner courts in concert with FCA	
				32.5% of court users consider PIC courts to be professional.	15% increase in excellent service <sup>66</sup>	Self-assessment against action plans <sup>67</sup>
				27% of court users	15% improvement in delivering fairer results	Court user perception survey

63 Indicative measures include; the existence and active operation of National Judicial Development Committees (however named), the existence and active implementation of local strategic development plans (however named), number of local trainers and the extent to which they are encouraged/able to conduct training, the number of local training/development activities conducted, the number of locally inspired/led changes underway, implemented and embedded, capacity to assess needs, design, implement, monitor and evaluate local activities. Success is measured by internal assessment of the following 5 OECD-DAC: 1) Did the project address the identified need? [relevance] 2) Did it demonstrably achieve its stated objective/s [effectiveness] and overtime, deliver its intended result/s? [impact] 2) Was it delivered on time and within budget? [efficiency] 3) Will the outcomes and results live on over time? [sustainability].

64 Ibid.

65 Ibid, refer to Table 3.

66 Ibid.

67 Action plans will be developed during all training activities and used to assess incremental improvement over time.



Aim <sup>57</sup>	Indicators	Baseline (Jul 2017)	Target	Methodology & Data Source
		consider courts to be adequately responsive, just, fair and reasonably.		conducted by partner courts in concert with FCA
	Number of backlogged / delayed cases in partner courts ( <i>procedural justice</i> )	82% of court users consider there to be unreasonable case delays	12.5% decrease in case backlog and delay <sup>68</sup>	PICs case management records
Short-term outcomes (YR1-2)	1.1.1 Improved capacity of <i>judicial leadership</i> to assess needs, plan, own and lead judicial development locally.	Extent to which change is driven locally <sup>69</sup>	On average, 18% of change is driven locally	5% increase in locally driven changes. PICs & MEA assessment against defined measures.
	2.1.1 Marginalised and vulnerable groups better	The extent to which the needy understand, and are confident to	19% of vulnerable and marginalised	5% increase in understanding / confidence Court User perception survey

68 Ibid.

69 Indicative measures include; the existence and active operation of National Judicial Development Committees (however named), the existence and active implementation of local strategic development plans (however named), number of local trainers and the extent to which they are encouraged/able to conduct training, the number of local training/development activities conducted, the number of locally inspired/led changes underway, implemented and embedded, capacity to assess needs, design, implement, monitor and evaluate local activities. Success is measured by internal assessment of the following 5 OECD-DAC: 1) Did the project address the identified need? [relevance] 2) Did it demonstrably achieve its stated objective/s [effectiveness] and overtime, deliver its intended result/s? [impact] 2) Was it delivered on time and within budget? [efficiency] 3) Will the outcomes and results live on over time? [sustainability].



Aim <sup>57</sup>	Indicators	Baseline (Jul 2017)	Target	Methodology & Data Source	
	able to <i>access justice</i> in and through courts.	exercise their rights.	people have knowledge of & confidence to assert their legal rights.		
	2.1.2 Partner courts operate with a higher level of <i>professionalism</i>	Extent to which officers deliver excellent service	32.5% of court users consider PIC courts to be professional.	5% increase in professionalism	Post-training satisfaction/learning surveys (completed by pax/TA) & learning application surveys completed 6 & 12 months after the training (completed by pax/CJ/Registrar or nominee).
	2.1.3 Partner courts exhibit more responsive & just behaviour & treatment that is fair & reasonable ( <i>substantive justice</i> ).	Extent to which courts deliver fair results	27% of court users consider courts to be adequately responsive, just, fair and reasonably.	5% improvement in delivering fairer results	PICs/TA documented assessment of relevant reforms
	2.1.4 Cases are disposed of more efficiently	Number of backlogged / delayed cases	82% of court users consider there to be	NA (no activities planned for the first two years)	PICs case management records



Aim <sup>57</sup>	Indicators	Baseline (Jul 2017)	Target	Methodology & Data Source	
	<i>(procedural justice).</i>	backlog in partner courts	unreasonable case delays		
Outputs	1 Regional Leadership - Chief Justices trained in leadership & associated tools provided.	The number of: <ul style="list-style-type: none"> <li>• people trained / supported in leadership</li> <li>• people satisfied with training / support</li> <li>• inter-courts links established</li> </ul>	NA	<ul style="list-style-type: none"> <li>• 2 x regional activities in years 1-4 and 1 x regional activity in year 5 each attended by 14 pax (=14 pax)</li> <li>• 80% satisfaction rating</li> <li>• 5 inter-court links established</li> </ul>	FCA/TA reports
	2 – National Leadership - National judicial leaders trained in leadership & change management & associated tools provided.	The number of: <ul style="list-style-type: none"> <li>• people trained / supported in change management</li> <li>• people satisfied with the training / support</li> </ul>	NA	<ul style="list-style-type: none"> <li>• 1 x regional activity attended by 14 pax (= 14 pax)</li> <li>• 8 x local activities each training / supporting x 10 pax (=80pax)</li> <li>• 5 x remote activities each training / supporting x 5 pax (=5 pax)</li> <li>• 80% mean satisfaction rating</li> </ul>	FCA/TA reports & PICs reports



Aim <sup>57</sup>	Indicators	Baseline (Jul 2017)	Target	Methodology & Data Source
3 – Leadership Incentive Fund - Local activities conducted through training & funding provided.	The number of grants awarded and activities implemented	NA	<ul style="list-style-type: none"> <li>• Equitable portion of 35 grants provided over 5 years</li> <li>• All activities implemented</li> </ul>	FCA records & PICs grant reports
4 – Access to Justice - PICs courts committed to improving access to justice, people trained & relevant tools provided.	Number of: <ul style="list-style-type: none"> <li>• people trained / supported</li> <li>• people satisfied with training / support</li> <li>• local resources developed and used/delivered</li> </ul>	NA	<ul style="list-style-type: none"> <li>• 1 x regional activity attended by 14 pax (=14 pax)</li> <li>• 4 x local activities each training / supporting x 10 pax (=40 pax)</li> <li>• 80% mean satisfaction rating</li> </ul>	FCA/TA reports & PICs reports
5 – Professional Development - Judicial / Court Officers trained in priority areas of knowledge skill & attitude.	Number of: <ul style="list-style-type: none"> <li>• people trained</li> <li>• people satisfied with training</li> <li>• local resources developed and used/delivered</li> </ul>	NA	<ul style="list-style-type: none"> <li>• 5 x regional activity attended by 14 pax (=70 pax)</li> <li>• 4 x local activities each training / supporting x 10 pax (=40 pax)</li> <li>• 80% mean satisfaction rating</li> </ul>	FCA/TA reports
6 – Localising Professional Capacity Building - PICs judicial / court	Number of: <ul style="list-style-type: none"> <li>• people trained / supported</li> </ul>	NA	<ul style="list-style-type: none"> <li>• 3 x regional activity attended by 14 pax (=42 pax)</li> <li>• 5 x remote activities each</li> </ul>	FCA/TA reports & PICs activity reports



Aim <sup>57</sup>	Indicators	Baseline (Jul 2017)	Target	Methodology & Data Source
officers trained to address needs locally.	<ul style="list-style-type: none"> <li>• people satisfied with training / support</li> <li>• local resources developed and used/delivered</li> </ul>		training / supporting x 5 pax (=25 pax) <ul style="list-style-type: none"> <li>• 80% mean satisfaction rating</li> </ul>	
7 – Institutionalising Professional Development - A modality to institutionalise cost-effective / sustainable in-region training.	<ul style="list-style-type: none"> <li>• Options paper completed</li> <li>• Inter-agency linkages established / operating</li> </ul>	NA	<ul style="list-style-type: none"> <li>• 2 x regional activities supporting x 10 pax (=20 pax)</li> <li>• 80% mean satisfaction rating</li> </ul>	Options paper & FCA/TA reports
8 – Human Rights - PICs courts committed, trained & equipped with tools to deliver justice aligning with human rights.	Number of: <ul style="list-style-type: none"> <li>• people trained / supported</li> <li>• people satisfied with training / support</li> <li>• local resources developed and used/delivered</li> <li>• NGO/CBO linkages established</li> </ul>	NA	<ul style="list-style-type: none"> <li>• 2 x regional activity attended by 14 pax (=28 pax)</li> <li>• 4 x local activities each training / supporting x 10 pax (=40 pax)</li> <li>• 80% mean satisfaction rating</li> </ul>	FCA/TA reports & PICs activity reports



Aim <sup>57</sup>	Indicators	Baseline (Jul 2017)	Target	Methodology & Data Source
9 – Gender & Family Violence - PICs courts committed, trained & equipped with tools to better respond to gender & family violence issues.	Number of: <ul style="list-style-type: none"> <li>• people trained / supported</li> <li>• people satisfied with training / support</li> <li>• local resources developed and used/delivered</li> <li>• NGO/CBO linkages established</li> </ul>	NA	<ul style="list-style-type: none"> <li>• 2 x regional activity attended by 14 pax (=28 pax)</li> <li>• 5 x local activities each training / supporting x 10 pax (=50 pax)</li> <li>• 80% mean satisfaction rating</li> </ul>	FCA/TA reports & PICs activity reports
10 – Efficiency - PICs courts equipped with the tools and capacity to improve efficiency in the administration of justice.	<ul style="list-style-type: none"> <li>• New toolkit developed</li> <li>• Number of people trained to implement the toolkit</li> <li>• Number of PICs implementing new policies, standards, systems, processes to improve administration</li> </ul>	NA	<ul style="list-style-type: none"> <li>• 5 x local activities each training / supporting x 10 pax (=50 pax)</li> <li>• 80% mean satisfaction rating</li> </ul>	FCA/TA reports & PICs activity reports
11 – Accountability - Court performance	Number of PICs: <ul style="list-style-type: none"> <li>• routinely producing annual reports</li> </ul>	NA	<ul style="list-style-type: none"> <li>• 5 x regional activity attended by 14 pax (=70 pax)</li> </ul>	FCA/TA reports & PICs activity reports





Aim <sup>57</sup>		Indicators	Baseline (Jul 2017)	Target	Methodology & Data Source
	monitored, evaluated & reported on to improve accountability.	<ul style="list-style-type: none"> <li>developing systems / methodologies to expand data collection</li> <li>collecting IFCE, gender &amp; GFV compliant disaggregated data</li> </ul>		<ul style="list-style-type: none"> <li>5 x local activities each training / supporting x 10 pax (=50 pax)</li> <li>15 days remote, training/supporting x 5 pax (=5 pax)</li> <li>80% mean satisfaction rating</li> </ul>	

