



ACCESS TO JUSTICE ASSESSMENT TOOLKIT - ADDITIONAL DOCUMENTATION

available at: <http://www.fedcourt.gov.au/pjdp/pjdp-toolkits>



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ANNEX 1: METHODOLOGICAL TOOLS AVAILABLE

Key Respondents	Strengths	Weaknesses	Assumptions	Summary
1. Key Stakeholder Focus Groups Discussions				
Annual, structured discussions with representatives of particular groups, including: <ul style="list-style-type: none"> Local customary leaders; Local judges; Women representatives; Youth representatives; Ethnic or cultural minorities; People with disabilities. 	Extensive direct experience; Capable of articulating range of views on access to justice issues (positive & negative); Accessible – most located in capital; Will highlight trends; May have access to empirical data; Builds partners for reform/better service delivery.	Information provided is frequently second hand and not objective. Risk of selection bias – only certain views represented; Not empirical; Unlikely to be directly representative of most marginalized; Respondents are frequently those ‘in positions of power’ – vested interest in maintaining status quo.	Sufficient representation of stakeholders buy-in to research and provide access and feedback openly; Focus only on this approach will not provide sufficient diversity of views or will lead to bias.	Strong tool as a starting point for identifying issues and measuring progress. But need to double check information by directly questioning population more broadly. Use as one of variety of tools.
2. Court User Surveys				
Randomly selected court users or people attending court building.	Ensure respondents have had actual experience; Cheap and easy to implement as can be conducted at court buildings; Data directly relevant to court work; Data comparable across countries.	Only people who use courts respond. May exclude particular groups (poor, living in remote locations); Only focuses on court-related issues; Respondents may be less open – may fear it affects case.	That courts collect this type of information on a routine basis; Capacity and time of court staff to implement survey.	Useful tool where surveys already exist or are being considered. Allows comparison between court users & non-users.
3. Representative Quantitative Survey Tools				
Households	Results representative of broader population; Provides detailed, statistical responses; Enables comparison across countries and time periods.	Expensive; Time and human resource capacity to design, test & implement survey; Access to suitable local survey firm.	Either budget exists to design and implement standalone survey or other survey tools exist to which modules could be added.	Costs and capacity constraints outweigh benefits in most countries – may be possible in some larger PICs.
4. Targeted Quantitative Survey Tools				
Randomly selected households but from purposefully selected	Approach provides for flexibility; Target specific areas (eg: remote or	Results can't be generalized across broader area; Still requires time and	Capacity exists in court to conduct interviews and analysis	May be more appropriate and cost effective

Key Respondents	Strengths	Weaknesses	Assumptions	Summary
villages. Select from urban vs rural/remote villages; and average vs poor socio-economic indicators.	poor villages); Allows courts to focus on local context or specific issues; Less threatening for respondents.	human resource capacity to design and implement; May get non-responses from respondents.	data or can be sourced locally. People respond to survey approach and openly provide information.	approach in smaller communities. Allows targeting. Can always expand based on results.
5. Administrative Data				
Key data collected by courts on case filing, disposal rate and time taken.	Already collected by courts so no replication; Represents actual experiences; Can be followed up with in-depth interviews with parties; Could support documentation in local courts.	Data doesn't always disaggregate by gender, age, economic status; Only covers cases filed in court; Data doesn't show why something happened only what happened; May not always be capacity to collect (eg: local courts don't have data).	That data is easily available and can be disaggregated across different socio-demographic indicators. Assumes that most cases make their way to court.	Can be very effective to compare with other data. But administrative data is limited in showing actual access issues as only represents cases filed in court.
6. Media Monitoring				
Documentation of legal-related incidents in media: newspapers, television and radio.	Provides analysis of both policy debate and actual cases; Can view trends over time; Can assist in formulating socialization strategies, informs what public is interested in and most effective way to disseminate.	Selection bias in cases – only document cases that go to court, are high profile or involve violence; Fail to examine small-scale or day-to-day cases; Geographic bias – focused on news from city.	Presumes that different forms of local media exist and accurately represent local issues.	Can be useful tool for documenting trends over time. Also use to double-check against findings from surveys. But can be time intensive and mostly focuses on larger cases.
7. Review of Literature and other secondary sources				
Desk review of journals/books and other surveys that exist.	Review of other survey tools can provide points of comparison or support in designing tools – highlights what works what doesn't; Can make link to broader social service delivery.	Limited research in countries in question. Much of research focuses on structures and not impacts; Other surveys mainly related to social issues (health and education).	Assumes that accurate research is accessible on issues in question.	Part of background.

ANNEX 2: STAKEHOLDER FOCUS GROUP DISCUSSION GUIDE, TUVALU



PACIFIC JUDICIAL DEVELOPMENT PROGRAMME

Access to Justice Assessment Toolkit

Focus Group Discussion – Tuvalu

Questionnaire Guide

12 November, 2012

PJDP is funded by the Government of New Zealand and managed by the
Federal Court of Australia

Session 1. Introduction

Objectives

- Explain the purpose of the focus group discussion and introduction of presenter and participants;
- Ensure participants are comfortable.

Content

1. Introduce Workshop

Introduce the objectives of the workshop:

- To assist the courts in Tuvalu identify access to justice needs and develop a plan to improve services to address those needs;
- To support the development of a toolkit that will be available to all courts in the Pacific.

Include an introduction of the Pacific Judicial Development Programme.

2. Participant Introduction

Provide participants with an opportunity to introduce themselves. Where there are less than 10 participants they should each briefly introduce themselves. Include information such as name, job, family status,...

3. Introduce Guidelines for Workshop

Guidelines are important so participants feel more comfortable in speaking freely. They can include:

- Explain that the focus group discussions aim to receive feedback on different issues NOT to discuss individual cases. The discussion can not review decisions or give advice on specific cases;
- Encourage everyone to participate and provide equal opportunity to participants;
- Emphasize the information will be treated in confidence. Notes are taken but names will not be used in any reports;
- Emphasize that there are no right or wrong answers. Everyone's views are equally important and should be respected.

4. Introduce structure of workshop

The discussion will take between 1 ½ to 2 hours. Over that time a range of questions will be asked on a range of issues.

List issues that each session will cover.

Preparation

The session will last approximately 15 minutes

It is important to keep the atmosphere as relaxed as possible. This includes being patient with participants and not rushing to discuss topics before the groups feels comfortable doing so.

- Make sure participants receive invitation well in advance;
- Ensure that a comfortable room is prepared;
- Identify a suitable facilitator. Make sure the facilitator has prepared and is familiar with the questionnaire;
- Identify a suitable note-taker;
- Consider any language issues. The facilitator, note-taker and participants should all communicate in the same language.

Introductions should be kept short but are important because they help make participants more comfortable with speaking in a group setting.

During the Focus Group Discussion the facilitator will need to ensure that all participants are provided with an opportunity to speak.

The facilitator will also need to make sure all topics are covered. At times, the facilitator will need to move the discussion forward when participants take too much time focusing on specific issues.

Session 2. Legal Knowledge & Access to Information

Objectives

To obtain information on:

- How people access legal information when they need it;
- The types of legal information people need;
- Particular areas where courts could improve the quality of information they provide.

Content

1. Access to Information?

- If you had a dispute over the boundary of the house you live in who would you contact to assist you in resolving the dispute?
- If you were summoned to appear in court where would you go to get information to support you before you went to court?
- A husband and wife are always fighting. It is also affecting their children and disturbing neighbors. Who would be best place to provide advice in these family disputes?
- Over the last 2 years can you remember any programs where information on the law or your rights was provided?
 - Who provided the information?
 - How was information distributed?
 - How useful was that information to you?
 - What do you think are the best ways to distribute information to the public?

(Examples could include radio, brochures, through community groups, through the church, posters, NGOs, ...)

2. Types of Information needed?

- If the court or other legal organizations were going to provide the public with more information on specific legal issues what type of issues are most important for them to provide information on?
 - Why?
- Are there any particular groups of people that need more information or information on specific issues?
(for example: do people from the outer islands need different type of information from people in Funafuti? Do women, young people, chiefs, disabled people, Need more detailed information?)

Preparation

The session will last approximately 20 minutes

This session is an 'ice-breaker'. It provides important information but also addresses issues that are not too sensitive. It allows participants to become more comfortable with the discussion.

Encourage participants to focus on specific examples instead of hypotheticals.

Responses should help courts:

- identify types of issues that the public would like more information on;
- determine the most effective way for disseminating information;
- identify gaps in court awareness activities.

Information provided will also be relevant for People's Lawyers Office, Police and NGOs.

Session 3(a). Court Services (Community Members)

Objectives

- To provide the court with feedback on services it provides across each level of courts;
- To provide recommendations for improving court processes;
- To identify areas of concern where legal actors are not providing enough support.

Content

1. Services in Island Courts and/or Land Courts

- How familiar are you with the work of your local Island Court or Land Court?
 - Have you had any experience with either of these courts in the last 12 months?
 - If yes, how would you describe that experience?
- Based on your experience and what you have heard about the Island Court or Land Court list some of the things you thought were most positive about these Courts?
- If you could make suggestions to improve these Courts what are the main suggestions you would make?

2. Services in Magistrates Court

- How familiar are you with the work of the Magistrates Court?
 - Have you had any experience with this court in the last 12 months?
 - If yes, how would you describe that experience?
- Based on your experience and what you have heard about the Magistrates Court what are some of the positive aspects of the work this Court does?
- If you could make suggestions to improve the services of the Magistrates Court what are the main suggestions you would make?

3. Support in Dealing with the Court

- What do you think about the level of support and information that is provided to people in using the Courts?
(Note: this could refer to the support by the People's Lawyers Office, the support of clerks in different courts, information available,...)

Preparation

The session will last approximately 20 minutes.

This session is specifically to receive feedback from different community groups on the services offered by courts.

It is crucial to stress again that this session is not about individual decisions but about the services provided. People should use cases as examples. If they focus too much on individual cases the facilitator will need to move the discussion forward.

Responses should help the Courts:

- Identify specific areas where they can improve the services provided to court users;
- Identify key issues court users may have with the performance of courts;
- Measure the degree of familiarity and knowledge people have about the work of the courts;
- Double-check assumptions the courts have about the services they deliver.

Session 3(b) Court Services (Island and Land Court Judges)

Objectives

- To receive feedback from judges on operation of the Island and Land Courts;
- To assist the judiciary in identifying and prioritizing needs for the Island and Land Courts.

Content

1. Court Services

- Provide a brief summary of how you believe your Court is operating.
 - Identify 2-3 areas where you think your court has done a good job in the last 12 months.
 - Identify 2-3 of the main challenges for the work of your court.
- What issues are becoming more frequent in your court or are becoming more difficult to deal with?
- In your opinion, are people who use the court comfortable and familiar with the courts processes?

2. Relationship with other Actors

- Many of your functions involving implementing by-laws from kaupule. How would you describe your relationship with the kaupule?
 - What type of information/support do you receive from the kaupule?
- As part of the national judiciary what type of support could be better provided to help your work from the national judiciary?
 - list the 2-3 most important areas for support?

3. Documentation

- What type of documentation do you collect on the cases handled by your court?
 - who do you provide this information to? (e.g: the Magistrate's Court, the Kaupule,...)

Preparation

The session will last approximately 20 minutes.

This session is specifically for Island and Land Court Judges.

The information provided should assist the court in planning support for the work of the Island and Land Court.

- Identify any training needs or new issues where these courts need support;
- Support approaches to improve documentation and reporting of cases;

The session also provides a court to cross-check information provided by judges with feedback from community groups.

Session 4: Social/Family Issues and the Court

Objectives

- To assist the Court to identify key issues relating to social order that are affecting the Court's work;
- To assist the Court to identify key issues relating to families and the law that are affecting the work of the Court;
- To identify possible options to make the courts more just and accessible in dealing with the social order and family law priorities identified.

Content

1. Social Order Issues

- Police and the Courts are dealing with an increasing number of disputes as a result of alcohol-related matters. These include minor offenses to more serious offenses, including assaults and even murder. Do you have recommendations on how alcohol-related offences can better be dealt with by justice actors (police, courts, prosecutors)?

2. Families and the Law

- Family issues, such as divorce, child custody, domestic violence, are always very difficult to deal with. How would you describe the services of legal organizations, including the courts, in dealing with family issues?
- Are there any areas where services could be improved when dealing with these family issues?

Preparation

The session will last approximately 20 minutes

Initial interviews raised a number of social issues being of primary concern for access to justice. These included alcohol-related offences (disturbing the peace, assaults, youth crime,...) and family issues including domestic violence and child rights given an increase in youth pregnancy.

This session will try to receive feedback on how Courts can respond to changing trends on these issues.

Information can help Courts:

- plan and allocate resources to address specific issues;
- develop appropriate and contextual court rules on issues identified;
- inform (and work with) other government departments to improve service delivery or regulations on emerging issues;
- tailor information to address identified needs;
- make requests for additional resources based on need.

Session 5: Conclusion

Objectives

- To wrap up the focus group discussions;
- To re-affirm how the information will be used;
- To provide participants with an opportunity to identify any additional issues relating to access to justice.

Content

1. Summary of Focus Group Discussions

- Quick summary of previous sessions;
It is useful to highlight a couple of points that emerged from each of the sessions as a quick summary. This shows the participants that their contributions have been important.
- Provide a summary on the next steps of Court work;
 - *These discussions were test. Further focus group discussions will be held with other community groups early in 2013.*
 - *The Court will then use this information to improve its planning process. This will include identifying 2-3 specific action items for the Court to address in 2013.*

2. Additional Comment

- Provide participants with an opportunity to make any additional comments or add issues they feel may have been missed.
This is important because there may be justice issues that are important to communities but Courts are not aware of. This is an opportunity for communities to raise those issues.

3. Thank participants for their time and contributions.

Close Focus Group Discussion

Preparation

The session will last approximately 15 minutes

In this session, it is important to:

- thank the participants of their contributions throughout the meeting;
- summarize some of the key messages/issues that have been identified in the discussion;
- inform the participants, again, of how the information will be used;
- allow the participants with an opportunity to identify additional issues or add any further comments.

ANNEX 3: EXAMPLE QUESTIONNAIRES

Piloted Access to Justice Questionnaire for the High Court of the Republic of the Marshall Islands

This survey was tested as part of an assessment of customary mechanisms in the Republic of the Marshall Islands in late 2011. This survey, attached below is also available as an annex to the Republic of the Marshall Islands Country Report located in the "Customary Dispute Resolution Research: Final Report" document located on the PJDP website: http://www.fedcourt.gov.au/_data/assets/pdf_file/0005/18698/CDR-Final-Regional-Strategy-and-Recommendation-Report-2012.pdf

Survey of Justice Issues - High Court of the Republic of the Marshall Islands

Dear Respondent

Hello. My name is _____ and I am working with the High Court of the Republic of the Marshall Islands. We are conducting a small survey that asks women and men about various legal and justice issues. We would very much appreciate your participation in this survey. The survey usually takes approximately 30 minutes to complete. Whatever information you provide will be kept strictly confidential and will not be shown to other persons. If we should come to any question you don't want to answer, just let me know and I will go on to the next question; or you can stop the interview at any time.

Section A: Background Questions.

Individual

1 Age _____ years

3 Sex: Male ☐

4 Highest Education Attained:

2. Place of birth

Female ☐

Majuro ☐

Other _____

Elementary School	
Attended High School (did not graduate)	
Graduated High School	
Some college (did not Graduate)	
Associate Degree	
Bachelor's Degree (or above)	

5 Married Status

Single	
Married/Living with Partner	
Divorced/Separated	
Widowed	

6. How many children do you _____ have?

7. Of those under 18 y/o do they all live with you?

Yes ☐ No ☐ Where? _____

Household

8 How many people live in the current house where you live? _____

9 How many people in your house are under 18 years old? _____

10 Which of the following best describes the house you live in?

The land belong to me	
The land belongs to someone else living in the house	
I pay rent for the house	
Another person living in the house pays rent	
We have permission to live on the land without paying rent	

Employment

11 Which of the following best describes your current employment and the employment of other adults living in your house?

	Respondent	Others
Government Employee		
Public Sector Company		
Private Sector - Professional		
Private Sector - Support		
Part-time		
Self-employed/subsistence		
Unemployed		

Section B: The following section asks you about your familiarity with different justice actors.

Please circle a number that best reflects your agreement with each of the statements below

		Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
1	If I had a dispute I know where I could find help	1	2	3	4	5
2	I feel that I understand my rights well enough	1	2	3	4	5
3	If I had a dispute my alap would be able to help me	1	2	3	4	5
4	The courts here treat everyone fairly and equally	1	2	3	4	5
5	Family disputes should never be reported to the police or courts	1	2	3	4	5

6 Organizations exist that can provide me with free legal advice Yes ☐ No ☐ Not sure ☐

7 If I needed legal information I would:
(do not read out)

Ask my family or a friend	
Ask my alap or another traditional leader	
Ask a religious leader	
Visit an NGO	
Visit the Public Defender or MLSC	
Visit a private lawyer	
Go to the police/court	

Other _____

8 If I could receive more information on legal issues I would like information on the following? (choose maximum 2)

Crime/Theft/Public Security	
Land Issues	
Employment/Wage	
Delivery of public services	
Family (adoption, divorce)	
Inheritance	
Domestic Violence	
Money (debt/contract/loans)	

9 The best way for me to receive information on legal issues & my rights is:

The radio	
The newspaper	
Brochures and posters	
Small community meetings	
NGOs	
Local/Community leaders	

Other (please write) _____

Section C: The following section asks you about actual disputes you may have experienced.

1 In the last 2 years have you experienced any disputes relating to the following issues:

No disputes		Inheritance	
Theft		Family (adoption/divorce)	
Fights		Domestic violence	
Land dispute		Delivery of public services	
Money (debt, contract, loan)		Sexual Assault	
Employment/Wage		Other (please write)	

Of the disputes you have mentioned we would like to ask you some questions on the one that has had the most significant impact on your life.

2 Can you briefly describe the dispute?

3 Who was the dispute with? _____
(eg: neighbour, alap, bank,...)

4 What action was taken to solve the dispute?

Nothing	
Direct negotiation with other party	
Sought assistance of third party	

5 If reported to third party or assistance requested, who from?

Family/Friends		Private Lawyer	
Traditional leader		Police	
Religious leader		Court	
Public Defender/MLSC		Other Government Department	
NGO		Other	

6 Why was that person chosen?

7 Has the dispute been resolved?

No, ongoing	
Yes, satisfactorily resolved	
Yes, but not satisfied with the resolution	

8 Briefly describe the steps involved in resolving the dispute

9 What part of the resolution process were you most/least happy with?

People's Survey, Solomon Islands (2011)

<http://www.ramsi.org/media/peoples-survey/>

The survey questionnaire is available in the annexes to each of the Annual Reports at the website above. The survey asks a range of questions on service provision and trust in government services across a number of sectors. Section I of the most recent (2011) survey is of particular relevance to judiciaries as it focuses on resolution of disputes.

Legal Knowledge, Attitudes and Perceptions Survey, HAKI Network (2012)

<http://static.squarespace.com/static/53f7ba98e4b01f78d142c414/t/53ffdf0fe4b0c1ee385c22c3/1409277711910/LEP-KAP-Survey%20FINAL.pdf>

The survey was initially developed for use in Sierra Leone but has subsequently been amended and used in a number of other countries. It is targeted at all justice sector agencies and not just the judiciary. It provides a range of questions on: knowledge of the law; perceptions of different legal actors; experiences in resolving disputes; and socio-demographic information. It is available at the above website.

Legal Australia – Wide Survey: Legal Need in Australia (2012)

<http://www.lawfoundation.net.au/ljf/app/&id=EDD640771EA15390CA257A9A001F7D08>

A quantitative survey conducted by the NSW Law and Justice Foundation of legal needs across Australia. The survey provides a broad range of questions across 12 categories of disputes. It is a whole of sector survey so results are relevant to both courts and other justice sector agencies. The survey document is available in Annex 1A at the above website.

ANNEX 4: ADDITIONAL READING

ABA Rule of Law Initiative, 2012. *Access to Justice Assessment Toolkit: Guide to Analyzing Access to Justice for Civil Society Organizations*, Washington, DC: American Bar Association. Available at: http://www.americanbar.org/advocacy/rule_of_law/publications.html [Accessed May 17, 2012].

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Pacific Judicial Development Programme

ACCESS TO JUSTICE ASSESSMENT TOOLKIT

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

