PACIFIC
JUDICIAL STRENGTHENING INITIATIVE

Gender and Family Violence Toolkit

Revised June 2021

NEW ZEALAND
FOREIGN AFFAIRS & TRADE
Aid Programme

AUSTRALIA

FEDERAL COURT OF AUSTRALIA

The information in this publication may be reproduced with suitable acknowledgement.

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

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

Published in October 2017. Revised June 2021. © New Zealand Ministry of Foreign Affairs and Trade.

Original edition prepared by Dr. Abby McLeod and Mr Tevita Seruilumi; and revised edition amended by Mr Tevita Seruilumi, for the Federal Court of Australia.

Enquiries:

Federal Court of Australia
Locked Bag A6000, Sydney
Australia, NSW 1235

Email: pjsi@fedcourt.gov.au
Web: http://www.fedcourt.gov.au./pjsi

PJSI Toolkits

Introduction

The Pacific Judicial Strengthening Initiative (PJSI) was launched in June 2016 in support of developing more accessible, just, efficient and responsive court services in Pacific Island Countries (PICs). These activities follow on from the Pacific Judicial Development Program (PJDP) and endeavour to build fairer societies across the Pacific.

Toolkits

PJSI aims to continue ongoing development of courts in the region beyond the toolkits already launched under PJDP. These toolkits provide support to partner courts to help aid implementation of their development activities at a local level, by providing information and practical guidance. Toolkits produced to date include:

- Access to Justice Assessment Toolkit
- Annual Court Reporting Toolkit
- Enabling Rights and Unrepresented Litigants Toolkit
- Family Violence/Youth Justice Workshops Toolkit
- Gender and Family Violence Toolkit
- Human Rights Toolkit
- Judges' Orientation Toolkit
- Judicial Complaints Handling Toolkit
- Judicial Conduct Toolkit
- Judicial Decision-making Toolkit
- Judicial Mentoring Toolkit
- Judicial Orientation Session Planning Toolkit
- National Judicial Development Committees Toolkit
- Project Management Toolkit
- Public Information Toolkit
- Reducing Backlog and Delay Toolkit
- Remote Court Proceedings Toolkit
- Training of Trainers
- Time Goals Toolkit
- Efficiency Toolkit

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

In response to evolving priorities of partner courts, the PJSI has expanded its areas of activities to include gender and family rights focused areas. The addition of this new toolkit: **Gender and Family Violence Toolkit** aims to address the responsibility of the Court in the community regarding family violence and in particular physical and sexual violence. This toolkit provides practical suggestions and methods to assist partner courts in assessing how accessible and responsive their court services are and how to improve efforts and track progress through implementing action plans. Beyond practicalities, this toolkit highlights the importance of community awareness, the need for accountability of perpetrators and the importance of appropriate response to victims of violence.

Use and Support

These toolkits are available online for the use of partner courts. We hope that partner courts will use these toolkits as/when required. Should you need any additional assistance, please contact us at: **pjsi@fedcourt.gov.au**

Your feedback

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

Dr. Livingston Armytage

Technical Director, Pacific Judicial Strengthening Initiative, June 2021

Table of Contents

Abbreviations iv

1 Introduction **1**

1.1 Violence against women: Why does it matter? 1

1.2 What is the role of the courts in addressing violence against women? 3

1.3 What is the purpose of this toolkit? 4

1.4 Who should use it and how? 5

2 What does a good court response to violence against women look like? **7**

2.1 Contributing to harm prevention efforts (prevention) 8

2.2 Focussing on the victim 9

2.3 Holding perpetrators accountable 12

2.4 Collaborating with others 13

3 Assessing current practices: What to ask and how to do it **15**

3.1 Self-assessment tool 15

4 Continuous improvement: developing a plan **16**

4.1 What goes in a plan? 16

4.2 Common areas requiring improvement: Some practical examples of projects (actions/strategies to support achievement of outcomes) 16

5 Monitoring Improvement **22**

5.1 Collecting relevant data 22

5.2 What kind of data is needed and how to collect it 22

Additional Documentation

Annex A: Material from Human Rights Toolkit: Quick Reference Guide for Cases Involving Women, Girls and Family/Sexual Violence A-1

- International Standards: Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) A-1
- Regional Standards A-2
- Domestic Standards A-2
- Step 1: Understanding the Barriers Faced by Victims and Court's Roles to Address Them A-3
- Measures to Make Court Processes Fairer to Women and Child Victims of Family Violence A-4
- Effect of Ratification in Domestic Law A-6

Annex B: Quick Reference Guide for Cases Involving Children A-7

- International Standards: Convention on the Rights of the Child (CRoC) A-7
- Why we need to have different justice standards for children? A-7
- Checklist for Judges in Deciding What Law to Apply in Criminal Cases involving Children A-8
- Minimum Standards for Criminal Cases Involving Children A-8
- Measures to Make Court Processes Fairer to Children A-10

Annex C: Court Family Violence Self-Assessment Tool A-12

Annex D: Court Family Violence Plan Template A-16

Annex E: Material from Access to Justice Toolkit: Stakeholder Focus Group Discussions and Access to Justice Surveys A-19

3 Stakeholder Focus Group Discussions A-19

- What are Stakeholder Focus Group Discussions? A-19
- Objective of Stakeholder Focus Group Discussions A-19
- How to Identify Issues for Discussion A-20
- Identifying Appropriate Stakeholders A-20
- Who to Involve – Court Staff A-21
- Preparing the Discussions and Drafting a Questionnaire A-22
- Conducting the Focus Group Discussion A-23
- Documenting Findings A-24

4 Access to Justice Surveys A-25

- What is an Access to Justice Survey? A-25
- Approaches to Conducting Access to Justice Surveys A-26
- Planning and Implementing an Access to Justice Survey – Issues for Consideration A-28

Annex F: Access to Justice Overview to the Cook Island Indicators A-31

Annex G: National Outcome Standards for Perpetrator Interventions A-34

Annex H: Power & Control Wheel A-37

Annex F: Equality & Respect Wheel A-38

Abbreviations

ADB	Asian Development Bank
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CJs	Chief Justices
CRoC	Covenant on the Rights of the Child
CSOs	Civil Society Organisations
EPPSO	Economic Policy Planning and Statistics Office
FCA	Federal Court of Australia
FGDs	Focus Group Discussions
FSM	Federated States of Micronesia
GBV	Gender Based Violence
GFV	Gender and Family Violence
HIES	Household Income and Expenditure Survey
HIV	Human Immunodeficiency Virus
ICAAD	International Center for Advocates Against Discrimination
JDLs	Juveniles Deprived of their Liberty
LJF	Law and Justice Foundation
NGOs	Non-government Organisations
NSW	New South Wales
NZ MFAT	New Zealand Ministry of Foreign Affairs and Trade
PACLII	Pacific Islands Legal Information Institute
PIC	Pacific Island Country
PJDP	Pacific Judicial Development Programme
PJSI	Pacific Judicial Strengthening Initiative ('Initiative')
PNG	Papua New Guinea
RAMSIs	Regional Assistance Mission to Solomon Islands
RRRT	Regional Rights Resource Team
SOPs	Standard Operating Procedures
UNDP	United Nationals Development Programme
UNFPA	United Nations Population Fund
UNIFEM	United Nationals Development Fund for Women
US	United States
VAW	Violence Against Women

1 Introduction

1.1 Violence against women: Why does it matter?

Violence against women, both in and outside of the home, is a global problem. Although the most obvious forms of violence against women are physical and sexual violence, violence against women can also involve psychological (such as controlling, humiliating or isolating a woman) or economic (denying access to or control over resources) abuse. Many types of violence against women also affect girls. Throughout the world, the most common form of violence against women is intimate partner violence (coercive acts performed without a woman's consent by a current or former intimate partner), which is usually referred to as family or domestic violence in the Pacific.

Violence against women is both a cause and consequence of gender inequality. It is sometimes referred to as gender-based violence because the acts of violence are committed against women *expressly because they are women.* Because family violence is gendered in nature, the overwhelming majority of victims are women and children, and the majority of perpetrators are men. The gendered nature of domestic violence is evident in police statistics and national prevalence surveys across the Pacific. Acts of gender-based violence and family violence are also committed against men and boys but at far lower rates than violence against women and girls. However, the perpetrators of this violence against men and boy are also most commonly men.

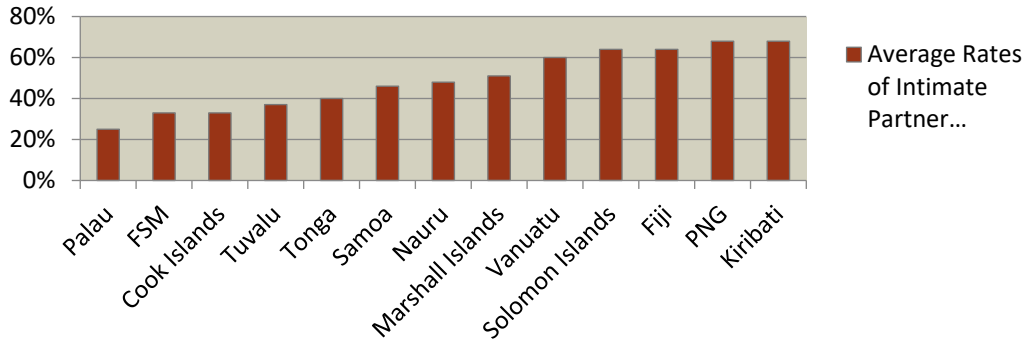
Family violence is one of the most common forms of violence against women. Family violence is caused by gender inequality which results from unequal power relations between men and women across all aspects of society, including in intimate partner relationships. When there are unequal power relations between a man and a woman is it highly likely for a man to use violence against his partner. The use of violence is a choice made by the perpetrator. Therefore, victims cannot be blamed for causing family violence in any situation.

Surveys show that in some Pacific Islands' countries women experience more family violence than women in any other part of the world. Globally, nearly one third (30%) of all women who have been in a relationship have experienced physical and/or sexual violence by their intimate partner.[1] The only country in the Pacific with a lower lifetime prevalence rate than the global average is Palau (25%), with all other Pacific Islands countries reporting higher than average rates of intimate partner violence (FSM and Cook Islands report only slightly higher than average rates, being 33% in each country), including Tuvalu (37%), Tonga (40%), Samoa (46%), Nauru (48%), Marshall Islands (51%), Vanuatu (60%), and, Solomon Islands and Fiji (64%). Alarmingly, PNG and Kiribati have the highest lifetime prevalence rates in the world, with 68% of women in each country having experienced physical or sexual violence by an intimate partner in their lifetime.[2]

[1] WHO, 2013, *Global and regional estimates of violence against women: Prevalence and health effects of intimate partner violence and non-partner sexual violence*, available online at: http://www.who.int/reproductivehealth/publications/violence/9789241564625/en/

[2] UNFPA, kNOwVAWdata, *2016 Regional Snapshot*. Bangkok, UNFPA.

Average Rates of Intimate Partner Violence



This has many consequences. At a country level, violence against women costs the government money (mainly for legal and health services) and stops women from doing paid-work, which prevents them from contributing to the economy. A recent study undertaken in Fiji, for example, found that domestic violence costs Fiji approximately $498 million per year.[3] It also stops women from participating in political life, from getting involved in community activities and sends a message to children that it is ok to use violence against their mothers, aunties, grandmothers and sisters. But the consequences are greatest at the family and individual level. Families are torn apart by men's use of violence against women. Women are physically and emotionally damaged. Sometimes children are physically harmed too, but even when they are not, seeing their father hurt or control their mother destroys their sense of safety, makes them feel upset and models behaviour that they may copy later in their own lives.

Violence against women is a form of discrimination but not all women experience it in the same way. Other forms of discrimination or types of disadvantage can make certain groups of women more likely to experience violence, or make it harder for such women to access services. For example, women with a disability experience higher rates of violence than women without a disability and they find it harder to access support services. Similarly, older women, girls and women living in rural areas face specific challenges when attempting to interact with the formal justice system.

Violence against women is a human rights violation and a crime under many local laws.[4] Under international law, states have clear obligations to address violence against women, including obligations to "exercise due diligence to prevent acts of violence against women; to investigate such acts and prosecute and punish perpetrators; and to provide redress and relief to victims."[5] Most countries in the Pacific have ratified the *Convention on the Elimination of All forms of Discrimination Against Women* (CEDAW)[6], and a number of regional standards show that Pacific Islands leaders are committed to acting in accordance with international laws that support women's human rights. These include the *Denauru Declaration on Human Rights and Good Governance* (2015) and the earlier *Pacific Island Judges Declaration on Gender Equality* (1997). In recent years, many countries have developed or amended legislation to offer better protection to women and children who have experienced family or sexual violence, which makes it clear to people that violence against women is against the law.

Despite increasingly strong local legal frameworks, however, violence against women continues to be viewed as acceptable by many people in the Pacific. Perhaps more than any other crime, violence against women (particularly when enacted in a domestic context) poses a significant tension between

---

3 Riwali, L., 2016, 'Domestic violence impacts economy', *The Fiji Times Online*, 16 June, available online at: http://www.fijitimes.com/story.aspx?id=358233

4 For a detailed explanation of human rights, including women's human rights, please refer to the PJSI Toolkit, *Human Rights in the Practice of Pacific Courts: A Toolkit*, 2017

5 UN, 2012, *Handbook for National Action Plans on Violence Against Women*, pg. 1, available online at: http://www.un.org/womenwatch/daw/vaw/handbook-for-nap-on-vaw.pdf

6 With the exception of Tonga and Palau

customary/traditional values, religious beliefs and the law, largely because it is so deeply founded in long-held ideas about the roles of men and women and the behaviours that are expected of them.

Yet we know that societies and their traditions change. Because change is possible, we know that communities can replace values and behaviours that no longer serve them well with values that will help them grow, such as non-acceptance of violence and gender equality. With the authority of the law behind them, judicial officers – be they law-trained or lay – are amongst the most powerful champions of progressive change. You therefore play a pivotal role in shaping attitudes to violence against women in your communities, your countries and the region as a whole.

1.2 What is the role of the courts in addressing violence against women?

To stop or lessen violence against women, we need to address it from different angles. First, we need to try to prevent it from occurring in the first place. Second, we need to make sure that when it does happen, we respond to it appropriately. All members of society have a role to play in addressing violence against women, although people working in the justice system have both informal (as members of society) and formal (as judicial officers or court officers) responsibilities, which means they play a powerful role in tackling the problem.

In collaboration with other government agencies, civil society, the church and communities, the court plays an important role in preventing violence against women, in addition to its more obvious role as a responder to violence against women. These two roles are interrelated.

Some important ways in which the court can contribute to the prevention of violence against women include:

- community awareness raising – public education about the law and the consequences of breaking it, which can be done through community forums and meetings, school visits, radio and television, plays, and written information (e.g. in the newspaper, signs and pamphlets); and
- holding perpetrators accountable – issuing sentences and articulating sentencings remarks which clearly demonstrate that there are harsh consequences for violence against women, which will deter others from offending (and recommending rehabilitation where appropriate).

As a responder to violence against women, the court has a responsibility to make its services accessible, safe and fair. There are many ways of fulfilling this duty, including by:

- analysing the barriers to court accessibility (which will be different for different groups of people, such as women, rural people, people with a disability) and doing things that remove or minimize those barriers (e.g. awareness raising so that people understand the law and their rights, court fee waivers, increased circuits outside of urban centres);

- assessing the safety (both physical and psychological) of courts and doing things to make them as safe as possible for victims,[7] for example by having secure waiting rooms, security guards, and different ways of providing evidence so that victims don't need to interact with offenders;
- working collaboratively with other service providers (government and non-government) so that victims receive proper information and support; and
- providing refresher judicial reasoning training to judicial officers, which explores the role of bias in decision making, so that judges and magistrates are champions of equality and less inclined to allow gender stereotypes and discriminatory cultural and religious beliefs to negatively impact outcomes for victims.

Collecting data is an important part of both preventing and responding to violence against women, as it allows us to understand what is going on at a given point in time (for example how many victims are using the court system, what kind of sentences offenders are receiving) and to monitor trends, which helps continual improvement efforts. Publicly providing court data on violence against women, through for example, annual court reports, is an effective way of demonstrating not only a commitment to improvement, but also a commitment to public accountability and transparency.

1.3 What is the purpose of this toolkit?

As the majority of Pacific Islands Constitutions prohibit discrimination on the grounds of factors such as race, sex and age, and international human rights treaties emphasise the right of all people to be treated equally, improved court responses to violence against women are integral to broader court efforts to uphold (and hopefully enliven) constitutional equality.

This toolkit is designed to help courts to measurably improve the accessibility and responsiveness of their services to the victims of violence against women, resulting in improved victim satisfaction with court and justice outcomes according to law.

The toolkit will help courts to achieve this goal in four ways:

1. It outlines good practice in the provision of court services to the victims of violence against women;
2. It provides courts with a simple method to assess how accessible and responsive they are to the victims of violence against women;
3. It describes how to develop a violence against women action plan to help courts focus their improvement efforts and demonstrate progress over time;
4. It suggests a range of practical things that courts can do to make their services more accessible and responsive to the victims of violence against women, for inclusion in their plans.

[7] Contemporary good practice refers to victims as victim/survivors because many victim/survivors reject their categorisation as victims. For ease of reading the term victim is used throughout this toolkit, although it should be taken to read victim/survivor in recognition of the strength and resilience shown by women who have suffered from violence.

The usefulness of this toolkit will only be realised if a concerted effort is made to enhance data collection (as outlined in Section 5), as this will enable you to understand what is and isn't working.

While recognising that different forms of violence against women are interrelated, due to the alarming prevalence of domestic/family violence throughout the region, this toolkit focusses primarily upon family violence. More specifically, it focusses upon family violence involving physical and sexual violence, as it is these cases (rather than cases involving only economic or psychological abuse) that are most likely to come before the courts. This does not suggest that other forms of violence against women are of lesser concern, but rather, it is intended to ensure that our efforts are focussed upon the most prevalent form of violence against women in our region. It is, however, anticipated that improvements arising from implementation of this toolkit will benefit women court users more broadly, including women who experience other forms of violence from men.

Use of the term victim throughout this toolkit is consistent with international good practice in the provision of services, including court services, to the victims of family violence. It does not imply that a case has been decided, nor that a pro-victim bias ought to influence judicial decision making.

When using this toolkit, it will be useful to refer to other PJSI toolkits to gain a more detailed understanding of specific information and processes. Where relevant, these toolkits will be referred to throughout. However, for general purposes, the most relevant toolkits to which you can refer are the: *Family Violence and Youth Justice Project Workshop Toolkit* (2014); *Access to Justice Assessment Toolkit* (2014); *Annual Court Reporting Toolkit* (2014); and, the *Human Rights Toolkit* (2017).

1.4 Who should use it and how?

To improve the accessibility and responsiveness of your court to the victims of family violence, all court officers must be involved. However, it is suggested that you start the journey towards improvements in this area with a series of meetings and/or small workshops led by the Chief Justice and select senior staff. It is important that all relevant internal stakeholders are involved in these meetings/workshops so that a sense of shared ownership is developed and people with direct responsibility for implementing initiatives can provide a realistic sense of opportunities and challenges.

It may be useful to:

- host an initial meeting with judicial and court officers, explaining the importance of improving services for the victims of family violence, outlining what good practice looks like and explaining the process your court will use to improve its services (this discussion can be guided by sections 1 – 2 of this toolkit);
- allocate a full day for the self-assessment activity (section 3 of this toolkit), circulating the self-assessment tool beforehand so that participants can gather any necessary data before the activity;
- conduct a full day follow-up activity to discuss the findings of the self-assessment and the relevance of suggested initiatives for improvement, as outlined in section 4 of this toolkit; and
- spend a day commencing work on your court's family violence plan so that key stakeholders are able to jointly develop objectives, discuss resource issues and commit to implementation and monitoring.

It is suggested that these activities be conducted within a maximum timeframe of one month so that momentum is not lost and the journey towards improvement can begin as soon as possible.

It is strongly recommended that prior to implementation of this toolkit, judicial and court officers be exposed to contemporary thinking about gender-based violence. Ideally, such exposure would involve training that not only familiarises them with basic concepts about gender equality and violence against women, but more specifically, training which challenges their beliefs about the roles of men and women in society and the dynamics underpinning violence against women. It is important that this

training be provided by trainers with a deep understanding of gender inequality and gender-based violence, and a strong personal belief that violence against women is unacceptable. Training to address and challenge mindsets on gender inequality and violence against women are critical to strengthening the courts understanding of family violence, including analysis on the root cause and common excuses that allow impunity for family violence. There is a wide network of such trainers across the Pacific, most typically working within non-government organisations such as women's crisis centres. Careful consideration should be made prior to selecting trainers and organisations who can provide this training, as it requires specific technical skills and expertise.

2 What does a good court response to violence against women look like?

A number of important documents help us to understand what a good court response to family violence should look like. These documents range from international human rights treaties through to practical guidance tools.[8] Collectively, such documents provide us with guidance on both the general principles underlying the provision of court services to all users, as well as more specific guidance on the particular needs of court users who have experienced family and other forms of violence against women. The Quick Reference Guide for Cases Involving Women, Girls and Family/Sexual Violence from the PJSI Human Rights Toolkit (2017) summarises relevant international, regional and domestic standards, and is reproduced for your convenience at Annexe A.

Based upon tested international practices, good court responses to the victims of family violence share a number of characteristics, namely:

- they contribute to harm prevention efforts;
- they are victim-centred, with a specific focus upon accessibility, safety and fairness;
- they hold perpetrators accountable; and
- they are collaborative.

These characteristics are explored below and will form the basis of your self-assessment.

[8] See for example: Universal Declaration on Human Rights, available online at: http://www.un.org/en/universal-declaration-human-rights/index.html; International Covenant on Civil and Political Rights, available online at: http://legal.un.org/avl/ha/iccpr/iccpr.html; Convention on the Elimination on All Forms of Discrimination Against Women, available online at: http://www.un.org/womenwatch/daw/cedaw/; International Framework for Court Excellence, available online at: http://www.courtexcellence.com/Resources/The-Framework.aspx; UN Handbook for National Action Plans on Violence Against Women, available online at: http://www.un.org/womenwatch/daw/vaw/handbook-for-nap-on-vaw.pdf; Essential Services Package for Women and Girls Subject to Violence: Core Elements and Quality Guidelines, available online at: http://www.unwomen.org/en/digital-library/publications/2015/12/essential-services-package-for-women-and-girls-subject-to-violence; UNODC, Strengthening Crime Prevention and Criminal Justice Responses to Violence Against Women, available online at: https://www.unodc.org/documents/justice-and-prison-reform/Strengthening_Crime_Prevention_and_Criminal_Justice_Responses_to_Violence_against_Women.pdf

2.1 Contributing to harm prevention efforts (prevention)

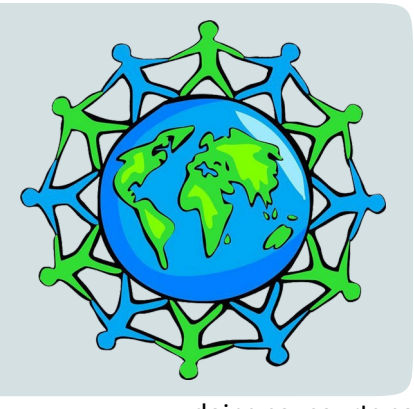
While the court is usually a responder to family violence, it also plays an important role in prevention.

Efforts to prevent violence against women are generally categorized into three areas: primary prevention, secondary prevention, and tertiary prevention. Often these three categories are used interchangeably, which often means that the terms primary prevention or prevention is used to define prevention work more broadly. Knowing the different types of prevention work in the Pacific will assist the courts to understand their role in preventing violence against women.

Primary prevention is working with groups and communities in general, where the majority of individuals have not witnessed, experienced or perpetrated family violence, to prevent the underlying cause of violence before it happens. This means understanding and addressing gender inequality as the root cause of family violence. Primary prevention strategies aim to challenge the attitudes, practices and behaviours that perpetuate gender inequality and family violence, directly targeting different groups of people. Given the complexities of family violence, it is important that primary prevention strategies involve a broad range of stakeholders, not only from government but also from civil society, the churches and the community. However, given the national prevalence for family violence is higher than the global average, it is rare that communities in the Pacific have not had prior exposure to family violence, this means opportunities for primary prevention interventions are also rare.

Secondary prevention works with what are considered high-risk groups that are likely to be exposed to or perpetrate family violence. For example, highly masculine groups like male dominated sports, boys' schools or the disciplined forces. In Pacific communities where the majority of people are likely to have been exposed to family violence in some way, most generalised prevention strategies need to adopt secondary prevention techniques which take this into account.

Tertiary prevention responds to family violence after it has occurred to reduce the harm towards victims and the likelihood of offenders reoffending. This includes how the Courts hear cases of family violence and hold perpetrators accountable for committing violence against women. Courts play an important role in shaping community attitudes and practices relating to family violence. They play a strong *normative role* in declaring the correct way of doing things, in keeping with the values and rules embodied in both local and international law. Because of this role, courts are amongst the most powerful drivers of social change – because they act with the authority of the law, they can publicly challenge attitudes and behaviours that are inconsistent with gender equality and women's right to live free from violence. This normative role is played not only when making judgements, but also when engaging with the media and the community more broadly (through for example awareness raising activities undertaken in collaboration with civil society organisations and other government agencies, and court user forums), noting that members of the judiciary need to avoid public perceptions of bias. Tertiary prevention also involves the effective implementation of the law, which contributes to changing social norms that excuse violence against women. In doing so, courts contribute to the broader work to prevent violence against women.



Courts can also be positive role models by addressing the attitudes and behaviours towards women of their own staff, ensuring that employment decisions are not made in a discriminatory way and making sure that inclusive language is used both verbally and in writing.

Engaging men and boys in efforts to prevent violence against women is becoming an increasing focus of prevention. Globally, men and boys are being encouraged to examine their assumptions about gender roles and masculinity through training and long-term behavioural change programs, which are being implemented in a variety of settings ranging from schools through to sporting clubs.

Engaging men as public "agents of change", through initiatives such as the Pacific Regional Network Against Violence Against Women, Male Advocacy for Women's Human Rights, is a powerful means of starting a conversation with the community about gender roles, gender equality and non-violent ways of being masculine, although it is important to ensure that such programs adopt a women's rights perspective. Men in powerful positions, such as Chief Justices, judges and magistrates, have a particularly significant role to play in challenging gender stereotypes by publically condemning violence against women, role-modelling positive behaviours (e.g. respect for women, equal treatment of their own staff), by encouraging others to speak out too, and ultimately, through their judgements on cases involving violence against women.

2.2 Focussing on the victim

Best practice responses to violence against women are victim-centred, with a focus upon victim rights and victim empowerment. They are *accessible*, *safe* and *fair*.

Groups of people interact with the legal system in different ways, depending on a variety of factors such as: knowledge of the law and their rights; geographic location; physical ability; economic capacity; and, fear of negative repercussions. As a group, collectively women– as compared to men - are disadvantaged when attempting to engage with the legal system, due to the fact that they have: lower levels of literacy (less knowledge of their rights and find court processes, such as filling out forms, more difficult); less control over material resources and lower levels of participation in the paid workforce (less ability to pay court fees); limited access to decision making; and, lower levels of mobility and specific safety needs due to the widespread prevalence of violence against them. Yet not all women are the same, with some facing additional burdens (due to factors such as age, socio-economic status and geographic location), when compared to other women. Unless such barriers are addressed, women will continue to have inadequate and unequal access to the legal system.

Access to courts services is impacted during emergencies, humanitarian crisis, disasters, pandemics and political upheavals. During these events', allocation of government resources and government priorities are often redirected. There may be temporary restrictions placed on freedom of movement and services, like courts or health services, may be limited. A good court response should ensure that it has protocols established where victims of family violence can continue to access its services should these situations arise. Undue socio-economic hardship, forced relocation, residing in temporary shelters, loss of employment, stress and anxiety are often used as excuses by perpetrators to further acts of violence against women. Restrictions to freedom of movement are also used by offenders to further control victims. For these reasons, it is important for the courts to remain accessible during these situations, especially for family violence protection orders and breaches. It is important to understand the dynamics of family violence in these situations and offenders' behaviours and controlling tactics while acknowledging the root cause of family violence remains unchanged.

It is important that courts help victims feel safe throughout the legal process. Victims often hold on to fear as a result of violence against them. Furthermore, women who have experienced family violence frequently fear that their husbands/partners will subject them to further violence because they are angry that legal action has been taken against them or because their partners have attempted to end the abusive relationship. In cases of family violence, "…it is particularly important that the safety of women is prioritized over perceived social or cultural concerns, such as maintenance of marriage or the family unit, and that any children in the care of women escaping violence are similarly protected and supported."[9]

The courts can help women to feel safe by providing court security, special safe rooms for them to wait in before court and in some cases, different ways of providing evidence (e.g. via video or from behind a screen/curtain) so that they don't have to encounter the perpetrator in person. The court can also develop and implement procedures where areas around the court can be restricted to victims only. It is also important to be aware of the need to promote the victim's psychological safety, which can be done by ensuring that both judicial and court officers treat the victim with respect, by making sure that the legal process allows her to adequately tell her story and by making sure that victims have access to trained support people, or advocates, who can accompany them through the process and provide independent advice before decisions are made.

If the victim or perpetrator of family violence is a child, they will have very specific needs. A comprehensive overview of the ways in which to deal with cases involving children is provided in the Human Rights Toolkit (2017) and is reproduced for your convenience at Annexe B. It is important to recognise that children under the age of 18 are at a different stage of psychological development to adults and thus have different emotional and safety needs when interacting with the formal legal system. This makes them additionally vulnerable but it is still important to enable them to fully participate in the court process. Using age appropriate language and making proceedings as informal as possible will assist children to participate and express their views.

In addition to treating victims with respect, courts are obliged to ensure that victims (and perpetrators) receive fair treatment before the law. Fairness can be promoted by understanding the power relations between men and women and the dynamics and consequences of family violence.

For example, it is important to understand that many female victims of family violence:

- do not have an income, or might not be in control of their income;
- might not have safe shelter during court proceedings;
- are primary carers of their children;
- likely to have experienced many forms of coercive control over an extended period of time;
- do not receive support from the community.
- might be subjected to threats and intimidation by their partner's family; and
- may be stigmatised and isolated from their community or faith-based group.

[9] UN, 2012, *Handbook for National Action Plans on Violence Against Women*, pg. 44, available online at: http://www.un.org/womenwatch/daw/vaw/handbook-for-nap-on-vaw.pdf

One of the greatest barriers to fairness before the law is *bias*, which is often unconscious (sometimes called implicit bias). All human beings are biased, including judges. Bias is a result of our life experiences and the ways in which we were raised by our families. Members of the judiciary might have been exposed to family violence in their homes as children and as adults they have might have perpetrated it or suffered from it. Bias may also be embedded in prevalent cultural values or religious teachings. It is impossible to get rid of bias but recognising it helps us to ensure that we make fair decisions.

When we allow bias to play a role in our decisions, we are acting in a discriminatory way. That is, we are unjustly treating people differently because of groups that they belong to. For example, we often treat men and women differently, and discriminate against disabled people. In countries where there are strong divisions between different ethnic or religious groups, fair decision making can be compromised by treating people from one group better than those from another group. This contravenes not only international human rights treaties, but also the majority of Pacific Islands Constitutions.

Despite these legal frameworks, however, discrimination against certain groups continues, including against women. Unfortunately, women face discrimination at every step of the legal system. Women who have experienced family violence are often turned away by police, who tell them to resolve it at home, or excuse it on the basis of customary practices that characterise women as their husband's property. Once in court, women often continue to be discriminated against by decision makers who hold biased views on the rights and roles of men and women, who take factors such as "customary reconciliation" in to account to mitigate sentences, or who question why women did not take measures to prevent the violence against them, thereby blaming them.

Courts can positively influence how culture is practised by not accepting practices that tolerate violence against women. For example, some communities may think that a husband is entitled to have sex with his wife whenever he wants to. Condemning marital rape and sentencing convicted perpetrators sends a message to the community that women have the right to say no to sex, even with their husbands or partners. It is also important to recognise that cultural practices are sometimes misinterpreted. For instance, reconciliation in most traditional settings was used to heal the rift between communities or families. It did not excuse the wrong that had been committed. Most often in the past individuals were held accountable for their actions despite reconciliation. It is important to remember these dynamics.

When customs are used by perpetrators or their representatives to minimize or tolerate violence against women, the Court can refer to counter arguments that show customary non-acceptance of violence against women, including the fact that the consequences for perpetrators of violence against women were often fatal. Courts are encouraged to refer to existing case law within its jurisdiction that discourages these harmful practices. So too, while women are often blamed for sexual violence against them because of the way in which they dress, it can be highlighted that traditional dress often involved limited clothing and that this was not used as a justification for raping women.

Courts cannot uphold women's right to equality before the law without tackling the role that bias plays in decision making, including bias arising from customary beliefs and practices that conflict with the law.

2.3 Holding perpetrators accountable

Best practice responses to violence against women are victim-centred, with a focus upon victim rights and victim empowerment. They are *accessible*, *safe* and *fair*.

Most perpetrators of violence against women, particularly family violence, do not face any legal consequences. When they do, as highlighted through a recent analysis of Pacific Islands sentencing decisions undertaken by the *International Center for Advocates Against Discrimination* (ICAAD), the sanctions they receive are generally low and do not reflect the gravity of the crime committed or its impact on the victim.[10] This sends a message to society that violence against women is not taken seriously, or that a number of excuses can be provided for it. Such excuses frequently include customary beliefs or practices that discriminate against women, gender stereotypes and certain myths, for example "rape myths" that hold women accountable for violence against them (e.g. they were drunk, they were wearing a short skirt). These myths not only excuse men's choices to perpetrate violence against women, but they place blame on female victims and make them responsible for the violence they have suffered.

In addition to sanctions that don't reflect the gravity of violence against women, the reparations and remedies that victims receive rarely reflect the seriousness of the crimes committed against them. This makes it difficult for victims to move on and heal, physically, psychologically and economically. In the absence of acknowledgement that suffering has occurred, victims often struggle to overcome emotional distress, making it hard for them to parent, enjoy positive social relationships or participate in the workforce. Furthermore, inadequate financial reparation – for example for costs incurred as part of the court process or medical expenses – places an additional burden upon victims, who have already experienced harm.

Interactions with the formal legal system – including both police and the courts – are often the only point at which men who have been violent towards their partners are held accountable. The Court is often the first place in which perpetrators are directly told that what they have done is wrong and illegal. It is therefore important that messages are communicated clearly and that no blame is attributed to the victim, as this can allow perpetrators to excuse their own behaviour. Perpetrators must be clearly told that the Court takes violence against women seriously and that further abuse will not be tolerated. Where available, rehabilitation is recommended, particularly that which actively seeks to address unacceptable perpetrator beliefs and attitudes (which underpin violence against women). When making referrals to rehabilitate offenders as conditions to an order or part of sentencing, careful consideration must be made in selecting which service or organisation that can provide this intervention. In many countries in the Pacific, these interventions are not available. Perpetrator rehabilitation programs are complex and high risk requiring specific expertise on men's violence against women. Program implementer must have the technical skills to identify manipulation tactics used by perpetrators to deflect responsibility or show change of behaviours that are not genuine. The Australia Outcome Standards for programs working to rehabilitate offenders of family violence include six minimum criteria:

- Women and children's safety are prioritized.
- Perpetrators receive the correct type of intervention.
- Perpetrators face justice and legal consequences.
- Programs address behaviours and attitudes on family violence.
- Programs are based on established evidence on what works to change behaviours.
- Facilitators have significant expertise on gender inequality, discrimination against women, power relations, patriarchy and violence against women.

[10] ICAAD, 2015, *An Analysis of Judicial Sentencing Practices in Sexual and Gender-Based Violence Cases in the Pacific Island Region*, available online at: https://icaad.ngo/womens-rights/promote-access-to-justice/combating-vaw-in-pics-reports/an-analysis-of-judicial-sentencing-practices-in-sexual-gender-based-violence-sgbv-cases-in-the-pacific-island-region-pics/

A summary explaining the six minimum standards is available in the Toolkit Additional Documentation Annexure G.

While physical violence is a common form of family violence which is more visible, there are other behaviours used by perpetrators to impose power and control over victims. The Power and Control Wheel, which can be found in the Toolkit Additional Documentation Annexure H, was developed to illustrate different forms of abuse and control that perpetrators often use in addition to physical or sexual violence. These behaviours are harmful towards victims and perpetrators should be held accountable for these actions. The Equality and Respect Wheel, which can be found in the Toolkit Additional Documentation Annexure I, portrays alternative behaviours that are respectful and promote equality. These are positive attitudes and nonviolent behaviours that the courts can highlight and emphasis to perpetrators.

Good court responses to family violence actively address these common weaknesses in practice (including policies and processes), primarily through judicial education and increased scrutiny of judgements.

2.4 Collaborating with others

Good court responses to the victims of family violence are always undertaken in collaboration with others.

As victims are likely to interact with multiple service providers, as well as non-government organisations, churches and customary authorities, it is important that service providers (such as the courts, police and hospitals) record and readily share information (where appropriate victim consent/authorisation is given), co-operate in the interests of the victim, and collectively treat victims with respect and dignity.

This requires courts to:

- maintain an awareness of services and people that can offer some form of assistance to victims (be it a justice sector agency, a counselling service, a health facility or a safe place);
- keep up to date contact details of relevant services and people so that victims can be quickly referred to them;
- have formal referral processes in place (if necessary) so that responsibilities are clearly understood by all;
- have clear information sharing arrangements, which prioritise victim confidentiality; and
- facilitate dialogue with other agencies, organisations and people so that relationships are developed and collaboration occurs.

Given that many people in the Pacific rely upon customary practices to address family violence (as they are more accessible than the formal legal system), it is important that these non-legal responses also treat victims fairly. This principle is reflected in a number of Pacific Constitutions, which disallow the use of customary law where it conflicts with constitutional rights, such as the right to live free from discrimination. Some (not all) customary practices are based upon beliefs that support the dominance of men over women, or uphold the right of a man to "discipline" his wife if she doesn't fulfil certain roles. In such contexts, women are not "equal" participants in processes such as mediation, and the remedies that are offered (such as

compensation) rarely benefit them directly. Aspects of culture and interpretations of religion that promote justice, equal dignity and participation of all persons, including women can be used as a counter argument to perceptions that condone violence against women and reinforce gender inequality.

As custom and tradition change over time, the courts have an important role to play in influencing customary practices and championing changing social values, so that they more closely reflect women's human rights. This can be done in very practical ways, including by setting guidelines for customary/traditional and non-formal justice practitioners about how to deal with family violence cases.

3 Assessing current practices: What to ask and how to do it

In order to increase the accessibility and responsiveness of courts to the victims of family violence, it is important to establish a baseline so that the strengths and weaknesses of current approaches can be understood. This will enable your court to plan for improvement and over time, allow you to measure and share information about your improvements with the public. A simple way of establishing a baseline is outlined below.

3.1 Self-assessment tool

Like other self-assessment tools, such as the Court Excellence Framework, the attached self-assessment tool (Annexe C) is intended to provide the basis of a continuous improvement approach. The self-assessment tool is based upon the outline of good court responses to family violence in Section Two of this toolkit.

It will allow you to assess:

- whether you are undertaking harm prevention activities;
- how victim-centred your approach is, as demonstrated by how accessible your court is, how safe your court is and how fair the outcomes women receive are;
- whether you are holding perpetrators accountable for their wrongs via appropriate sentences and reparations for victims; and
- whether you are collaborating with others.

The self-assessment tool should be completed by a wide range of internal stakeholders so that a comprehensive view of current strengths and weaknesses can be developed. That said, it is important that the tool is used by people who have the knowledge required to provide reasonable responses, rather than personal judgements based on minimal information.

Once completed, the self-assessment tool provides you with a baseline. It will tell you where you are investing time and effort. This information is best combined with information obtained from external stakeholders, as internal and external views often differ. These findings provide a useful starting point from which to plan your journey towards measurably improved accessibility and responsiveness of your services to the victims of family violence.

4 Continuous improvement: developing a plan

The famous saying, "failing to plan is planning to fail", is particularly true when complex changes are being made, or when difficult issues are being tackled. As we have seen, good court responses to violence against women require attention to a wide range of issues. Drawing upon your self-assessment findings, you will have identified areas where your court is doing well and areas where improvement is needed. These findings form the basis of your plan.

It is important to establish a realistic plan "life" so that the plan remains relevant to the work of the court, people stay motivated and initiatives can be fully implemented, resulting in a sense of achievement. It is useful to connect your family violence plan to other relevant plans, be they court plans such as strategic or corporate plans, or broader justice sector or country plans on violence against women (or family violence more specifically), so that you approach family violence in a strategic way and don't duplicate effort. Given that women's right to live free from violence is a human rights issue, it would also make sense to connect your family violence plan to your human rights plan, if you have one.[11] Aligning your plan with your budget cycle will help to ensure that realistic resource decisions can be made.

Engage a range of internal stakeholders to participate in the planning process so that you draw upon a wide range of knowledge and expertise, people feel valued and you develop a collective sense of purpose. This will help ensure that people will do the work required to put your plan in to action.

4.1 What goes in a plan?

There are many different ways of producing a plan but good plans usually have sections that explain:

- your goal (e.g. your higher purpose/aim);
- specific outcomes you'd like to see (these will be informed by your self-assessment);
- the actions/strategies that you will use to pursue your goals (section 4.2 below provides some practical examples of actions and strategies that may help you to pursue your goals);
- roles and responsibilities nominated to specific personnel;
- timeframes for actions/strategies; and
- how you will measure progress.

A court family violence plan template is attached at Annexe D. Your plan will be most useful if all sections of the template are completed. Below are some practical examples of activities (projects) you can do to help achieve different outcomes. These are the types of actions/strategies that you can include in your plan to foster improvements in areas requiring attention, as highlighted through your self-assessment and other data gathering processes.

4.2 Common areas requiring improvement: Some practical examples of projects (actions/strategies to support achievement of outcomes)

Drawing upon international good practice in the provision of services for the victims of family violence, the elements of which formed the basis of your self-assessment, there are many things that can be done to improve the accessibility and responsiveness of courts to victims.

Common challenges faced by the victims of family violence across the region include:

- lack of awareness of their rights and legal process;
- difficulty accessing the formal legal system;
- difficulty staying involved in the formal legal system due to delays, lack of interim protection from further violence and pressure to withdraw their complaint;
- not feeling safe enough to use the formal legal system; and

[11] The PJSI Toolkit, *Human Rights in the Practice of Pacific Courts* (2017) provides guidance on how to produce a court human rights plan.

- unfair legal outcomes due to judicial bias.

Below are some practical suggestions about the ways in which courts can address these challenges. Implementing just one, or many of these strategies, will contribute to improved accessibility and responsiveness of your services to the victims of family violence.

4.2.1 Undertaking an Access to Justice Assessment

In order to improve the accessibility of courts to the victims of family violence (who are mainly women), it is necessary to understand the challenges victims face when trying to access services. Your self-assessment provides one form of data on access issues but it is important to hear the views of the people who actually use your services. In relation to family violence, this will mainly be women, although it is important to remember that not all women are the same. It is therefore necessary to gather the views of different kinds of women. For example, in addition to consulting with general groups of women, it would be useful to consult with groups of women that we know experience specific challenges such as girls, older women, rural women and women with disabilities.

There are power dynamics and sensitivities involved when interacting or consulting with women who have accessed court services. They may be reluctant to provide genuine feedback for various reasons. Due to the sensitivities required, it is recommended that feedback from women, including women from vulnerable groups are sought from service providers and women's groups who assist victims. These groups represent the experiences of women and are better placed to articulate the challenges, successes and identify areas of improvement on women's access to justice.

By gathering information on the views, experiences and needs of court users (particularly women), you will develop an understanding of: what matters women are likely to bring to court and why; women's understanding of the law and the role of court; what makes it difficult for certain groups of women to access the court (e.g. fees, transport, literacy, fear); what other options women are using to address family violence (e.g. mediation, customary resolution); how women view the delivery of court services; and, how women receive and use information on the courts.[12] While the views and experiences of women are particularly relevant (because most victims of family violence are women), it also important to gather the views and experiences of men. This will allow you to compare and contrast the views and experiences of women and men, so that you can develop an understanding of the different needs of these two groups of people. This knowledge will help you develop a plan to improve the accessibility of courts to the victims of family violence.

The *Access to Justice Assessment Toolkit* (2014) explains how to undertake a comprehensive access to justice assessment, which can be done in many ways, including through:

- stakeholder focus group discussions with different key interest groups; and
- Access to Justice Surveys.

Specific guidance on how to conduct stakeholder focus group discussions and access to justice surveys is provided in Sections 3 and 4 of the *Access to Justice Assessment Toolkit.* [13] This information is reproduced for your convenience at Annexe E.

As relationships between formal legal system personnel and communities are sometimes strained, it may be difficult to generate meaningful discussion in stakeholder focus groups facilitated by judges, magistrates or court staff. In such circumstances, the court can work with civil society organisations who can carry out consultations on their behalf, or engage directly with service providers and non-government organisations who can provide an understanding of victim needs and experiences, rather than seeking information directly from victims. This approach is highly recommended, as civil society organisations dedicated solely to addressing violence against women typically have a deep

[12] PJSI, 2014, *Access to Justice Assessment Toolkit*, pg. 2.

[13] PJSI, 2014, *Access to Justice Assessment Toolkit*, pgs. 9-20.

understanding of the dynamics underlying violence against women and an ability to use this knowledge to interpret consultation findings.

Once you have a comprehensive understanding of the barriers that women face when seeking to use the courts to pursue family violence matters – and of their experiences once engaged with the system – you can start to plan specific ways of addressing areas that require improvement. So, for example, if your analysis shows that women:

- don't understand their legal rights, you can invest in a public awareness campaign to be undertaken in collaboration with relevant civil society groups;
- lack confidence filling out forms, you can develop administrative processes to help them;
- feel scared attending court, you can invest in physical security measures to make them feel safe, including women's advocates who can accompany victims to court; or
- feel as though the courts don't treat them fairly, you can provide education to staff so that they better understand the causes and consequences of family violence and the ways in which their own bias impacts upon decisions.

These examples illustrate the way in which your assessment should inform your planning. A thorough access to justice assessment provides the foundations upon which you can build. Without undertaking this step properly, it is impossible to develop a comprehensive approach to improving the accessibility and responsiveness of courts to the victims of family violence.

4.2.2 Conducting public awareness raising campaigns

Awareness raising campaigns have proven to be critical to the prevention of violence against women, particularly when they actively challenge underlying attitudes and behaviours. [14] Awareness raising campaigns are a useful way of increasing people's knowledge of laws relating to family violence and of the services that are available to victims. They are also an important avenue for discussions about the differences between legal and customary approaches to family violence, providing an opportunity to emphasise the point that both approaches must uphold women's human rights. Awareness raising campaigns are an important way of improving women's access to justice because in order to use legal processes, women must know what their rights are, what they can do to protect their rights and what kinds of services they can access.

The court can contribute to awareness raising in many different ways. The approach that you take will depend on:

- how much you know about the knowledge, attitudes and needs of various community groups (you should have this information from your access to justice assessment);
- what you know about the way in which people like to receive information (e.g. by watching drama performances, listening to the radio or TV, reading the newspaper etc.); and
- the amount of time and money you have available to dedicate to awareness raising.

Sometimes it is useful to combine your efforts with another agency or group so that you can make your message more powerful. Civil society groups tend to be particularly powerful partners as they often have their "ear to the ground" (they know what people are thinking and feeling) and have high levels of legitimacy. Working with such groups can maximise the delivery of your messages and often saves time because you can contribute to planned or existing campaigns, such as locally organised White Ribbon Day or 16 Days of Activism Against Gender-Based Violence events, rather than organising something yourself.

[14] UN, 2012, *Handbook for National Action Plans on Violence Against Women*, pg. 34, available online at: http://www.un.org/womenwatch/daw/vaw/handbook-for-nap-on-vaw.pdf

When working collaboratively with civil society, it is recommended that the courts work with established groups, whose work is grounded in a human rights approach to violence against women. These groups are an incredibly valuable resource to the courts as they work with victims and have a solid understanding of the challenges such women face.[15] As a note of caution, it is important that the court be able to recognise groups that do not fully understand the dynamics of family violence and therefore reinforce messages that promote inequality, violence against women and the blaming of victims. This includes any groups that use customary or religious justifications for violence against women or gender inequality.

Before planning your awareness raising campaign, it is important to think about what you are trying to achieve, as this will influence the type of campaign that you should run and how you should measure its impact (see Section 5).

If you are aiming to communicate specific information about the law and legal processes, it might be best to run a campaign that uses both print (as it allows you to record detail) and radio (as many people access it and can be referred to printed material).

If you are aiming to communicate information about the harm that family violence causes, you might consider an image (photos or pictures) based campaign, or if you aim to show the community that the court won't condone family violence, you may launch a campaign using senior court officials who are willing to speak out strongly against family violence in accessible public places.

Below are some examples of different approaches to awareness raising:

Wan Smolbag Theatre is a non-government organisation based in Vanuatu. It operates throughout the Pacific with the aim of creating awareness about challenging issues, such as family violence and HIV. The group has produced over 100 travelling plays, a radio serial, over 20 films and a popular TV series. Wan Smolbag is the largest grassroots organisation in the Pacific. Its success is an example of the power of theatre to engage with difficult issues and challenge gender stereotypes. It is accessible and entertaining and does a great job of getting people to think about things differently.

Public Speeches are a powerful means of reaching large audiences. Following a recent circuit, one of the CJs spoke publicly at a local market place about the unacceptability of family violence. Having respected and powerful people deliver such messages is a very compelling way of shifting beliefs about the acceptability of family violence. When CJs and judges speak out against family violence, it also sends a strong message that the law will not tolerate it.

Whether running a campaign involving only court officials or working collaboratively with civil society, it is important to remember that the intent of a campaign is to raise awareness of the law as it relates to family violence and send a strong message to society that violence against women is unacceptable. It is therefore important that people who have perpetrated family violence, or who clearly hold views that

[15] Examples of strong women's rights organisations that work from a victims centred approach is the Fiji Women's Crisis Centre, the Tonga Women's Centre for Women and Children, the Vanuatu Women's Centre, Family Support Centre (Solomon Islands)and Nazareth Centre for Rehabilitation (PNG). Some examples of organisations that are growing to become strong organisations are Kiribati Women and Children's Support Centre, Women United Together Marshall Islands, Chuuk Women's Council (FSM), Samoa Victim Support Group and Highlands Women Human Rights Defenders Network(PNG).

either excuse family violence or blame women for its occurrence, are not involved in these campaigns. If they are, your campaign will be undermined and their involvement will perpetuate the beliefs that you are trying to challenge.

4.2.3 Enhancing court safety

Governments have a duty to protect people who work in or visit courts. If your self-assessment and access to justice assessment showed a need to increase the safety of your court, there are a number of things that you can do. As with the access to justice assessment process, it is important to clearly identify where your strengths and weaknesses lie before taking action. Court safety, both physical and psychological, can be enhanced by addressing the physical court environment, the way in which you manage people and your court processes.

Your ability to structure your physical court environment may be limited, particularly if your court is a single room building. If you have a larger court you may have options to change the way in which spaces are used to enhance victim safety. Some basic practical suggestions include ensuring that your court has a separate entry and exit, separate waiting area for victims, and if possible, a separate room for victims who want to rest or deal with difficult emotions. Ideally this room would be a welcoming space and be safe for children too.

Large courts often have a range of other physical security measures, such as closed-circuit television, metal detectors and scanners, although these are expensive to purchase and costly to maintain. At a minimum, it is important to undertake basic security checks of all people that enter the court house, to ensure that they are not carrying anything (e.g. guns, knives, other dangerous implements) that may be used to cause harm. Many courts have a visible roaming security presence, often provided by private security contractors, which makes people using the courts feel safer and enables a rapid response if safety concerns arise.

In addition to making changes to the physical court environment, addressing staff (knowledge, attitudes, behaviours) and process issues can also improve victims' safety. For example, it is well known that long waiting times can exacerbate stress (for both victims and offenders), which heightens both physical and psychological safety risks. This can be particularly risky if separate spaces are not provided in which victims and offenders can wait. If separate spaces are not available, at a minimum it may be helpful to stagger arrival times.

Best practice emphasises that civil cases involving protection orders and family law matters should be held in closed court settings. This means that only the parties involved, and their legal representatives or support person(s) should be in the court room. Often while a 'closed court' is sitting there are legal representatives for other civil matters, or family law cases, present at the back of the court room awaiting their hearings. This contradicts the purpose of closed court hearings. Consideration should be granted when a victim or their legal representative requests a closed court ensuring that everyone who is not a party to the proceeding leaves the court room.

Going to court is a stressful process for both victims and offenders. Research shows that the way in which court staff interact with court users has a major impact on their feelings of psychological safety.[16] It is important that court staff are approachable, friendly, and treat people with dignity and respect. This is proven to make court users feel calmer and less nervous about the court process. It could be useful to run a basic training course (even if it is a refresher course) for court staff on respectful communication, including information about the ways in which they can deal with confrontational behaviours respectfully and safely.

Another way that you can promote the psychological safety of court users is by making the process as easy to understand as possible. Basic signs are an easy way of helping people to physically navigate the

[16] Sarre, R. & Vernon, A., 2013, "Access to Safe Justice in Australian Courts: Some Reflections upon Intelligence, Design and Process", *International Journal for Crime, Justice and Social Democracy*, 2(2), 133-147.

courts, although the presence of court assistants is also beneficial as it is well known that people don't tend to read signs when they are nervous or traumatised. Anything you can do to demystify the process will promote psychological safety. It is important that the court process is fully explained to victims so they don't feel frightened or overwhelmed. Easy to read pamphlets are one way of doing this and can be shared with other services (such as police, health or non-government support services) so that they can be read before court attendance. This, however, doesn't replace the value of court assistants who can sit down with victims to provide information and human reassurance.

Many of these suggestions can be implemented easily and are likely to involve only small changes to existing practices. It is important to put yourself in the shoes of victims and imagine what is going through their minds when they interact with the legal system. Small changes such as these can have a big impact on victim experiences of the court process and are likely to measurably improve family violence victims' perceptions about the accessibility and responsiveness of your court.

4.2.4 Training staff to recognise and minimise the impact of bias

It is important that staff who work directly with the victims of family violence understand not only relevant laws, processes and procedures, but also the causes and consequences of family violence. All too often, gender bias and discriminatory attitudes (often justified as custom or religious teachings), shape the ways in which we view the victims of family violence and we blame them for the violence perpetrated against them. Very few family violence perpetrators face legal consequences and when they do, they are often not in proportion with the gravity of the offense.

While many factors influence the rate at which the perpetrators of family violence are prosecuted, there is little doubt that the judiciary (be it law trained or lay) plays a role. Training judges, magistrates and staff about the root cause, the excuses and consequences of family violence is a positive step towards promoting fair outcomes for the victims of family violence. However, it is important that this training, when provided to judges and magistrates, is complemented by unconscious bias training, specifically designed to raise personal awareness of the fact that bias is pervasive and requires management so that fair decisions can be made.

In addition to locally designed and delivered training programs, which many courts find challenging to deliver, a range of non-government organisations – both regional and national – provide training on the causes and consequences of family violence. Regional expertise on VAW are a good place to start and it is often useful to conduct general (not specific to the legal role of the courts) training in partnership with others, such as police, so that a shared understanding of the issues is developed at the sector level. If you wish to conduct your own training, the *Family Violence and Youth Justice Project Workshop Toolkit* (2014) will provide you with some useful ideas.

Although training is a useful way of improving people's awareness of key issues, it is important to remember that delivering a training course is not the end goal. Training will enhance knowledge and awareness but it will not automatically result in changed attitudes and behaviours. A judge who undertakes unconscious bias training will not automatically write judgements that are less discriminatory. Many extra steps are required to make that happen. These include holding judges accountable for the fairness of their judgements (which requires regular review of judgements) and holding administrative staff accountable for the ways in which they interact with court users. Some ways that you might measure progress in this (and other) areas are outlined in Chapter 5.

5 Monitoring Improvement

It is important that somebody has accountability for implementation of your court's family violence plan. Ideally, that person will have authority and the ability to influence, which makes Chief Justices a good choice. It is often useful to support the Chief Justice with a small committee or governance board (e.g. the family violence committee), which is responsible for overseeing and monitoring plan implementation, including by coordinating the efforts of various people with implementation responsibilities. Some organisations add a level of accountability to their committee by including members from other organisations, civil society or the community, which has the benefit of expanding ownership of the plan and enabling connections to be made with other activities.

5.1 Collecting relevant data

Improvement is only possible if you know where you are starting. As highlighted in the 2014 Court Trend Report, Pacific courts have worked hard in recent years to improve the collection and reporting of data, enabling the establishment of realistic and achievable performance standards.[17] It is important that this development informs efforts to improve the accessibility and responsiveness of court services to the victims of family violence, so that an understanding of both current and future dynamics can be developed. Of particular relevance, the increased collection and reporting of gender disaggregated data on both family law and family violence cases is a very positive development in the region. Trends such as these will continue to positively impact on the ability of the courts to improve their practice and be accountable to the public.

5.2 What kind of data is needed and how to collect it

The overarching goal of PJSI gender and family violence activities is to: measurably improve the accessibility and responsiveness of court services to the victims of violence against women, resulting in improved victim satisfaction with court and justice outcomes according to law.

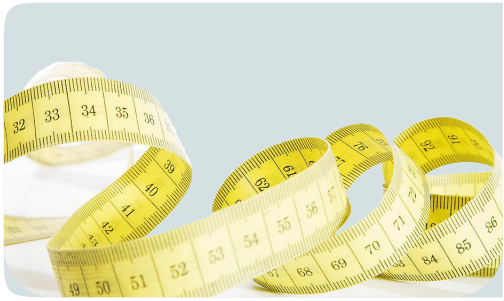
In order to determine the kind of data that is needed to measure improvements, it is important to break down exactly what it is that you're trying to measure. The practices outlined throughout this toolkit are strategies proven to improve the accessibility and responsiveness of court services to the victims of family violence, and violence against women more broadly. By making these improvements, it is hoped that such victims will be more satisfied with the courts and the outcomes that they receive.

5.2.1 Measuring accessibility

There are many measures of accessibility, some of which are already included in the 15 "Cook Island indicators."[18] Further guidance on these indicators is attached at Annexe F. It is important to ensure that the measures you choose reflect the improvement initiatives that you have outlined in your Family Violence Plans. For example, if you plan to increase fee waivers for family violence cases, a modified version of Cook Islands Indicator 5 might be "percentage of family violence cases that are granted a court fee waiver". Likewise, if you determined that transport and geography are barriers to women's court access and decided to respond to this challenge by increasing the number of family violence cases that are heard through a circuit court, a reasonable measure might be "percentage of family violence cases finalised through circuit courts".

[17] PJSI, *2014 Court Trend Report*
[18] PJSI, *2014 Court Trend Report*, pg. 12

5.2.2 Measuring responsiveness



Responsiveness is a complex concept. It can be taken to refer to the quickness and appropriateness of a response, or to the degree to which court user needs are met. If your Family Violence Plan includes a time standard within which the court aims to complete family violence cases, a good measure of responsiveness is that outlined in Cook Islands Indictor 2, namely "average duration of [family violence] cases".

Measuring the fairness of victim outcomes requires more effort than the collection of standard court data. One way to do it may be to take the ICAAD sentencing analysis (if undertaken in your country) as a baseline and undertake comparative analysis at one year periods. Lower numbers of sentencing decisions that show evidence of biased decision making, or discriminatory reliance upon customary law practices, would be one measure of improved fairness, as would lower numbers of lenient sentences for the perpetrators of family violence.

5.2.3 Victim satisfaction with court services and outcomes

The only way to measure victim satisfaction with court services and outcomes, and their knowledge of the law, is to actively engage with victims who have used your court or with groups that work with victims. This is important not only for measuring the impact of your efforts to improve court responsiveness to the victims of family violence but also to meeting the commitments made under the Regional Justice Performance Framework (2012) to include "a summary of key findings from any court stakeholder/potential court user surveys and dialogues that have taken place in the previous year" in court Annual Reports.[19]

Stakeholder/potential court user forums will provide you with different types of information to court user surveys.

5.2.3.1 Public forums

Public forums are a useful way of engaging large groups of people and are a good way of giving members of the community a chance to be heard. They allow you to collect large amounts of information in a short period of time and are not very costly. Public forums allow a two-way flow of information, thereby serving a dual educational and information gathering purpose.

A useful way of starting a forum is to ask a speaker or facilitator who has a sound understanding of violence against women and the difficulties faced by victims to provide an overview of a key issue (e.g. access to the legal system) and then seek responses from the community. It is important to facilitate the discussion so that all people have an opportunity to express their views and to keep the forum moving. Rules are needed (such as respecting other's right to talk and keeping comments short) to keep things in order and it is useful to have a series of set questions to generate discussion if things slow down. Make sure to record the discussion (either in writing or on an electronic recording device) so that it can be referred to later and properly analysed. It should be made clear that due to the sensitivities of a particular case, or due to the nature of an ongoing case, that some cases cannot be discussed in these forums.

More detailed guidance on conducting stakeholder forums is provided in the *Access to Justice Assessment Toolkit* (2014).

[19] PJSI, *2014 Court Report*, pg. 61

5.2.3.2 Court user surveys

Court user surveys consume more time than public forums but they provide more comprehensive information about people's views and experiences. Surveys can be administered either verbally (e.g. somebody stops people leaving the court house, asks them to participate and talks them through a series of questions) or in writing (people can take them away and complete them in their own time). Each approach has its strengths and weakness but they both result in valuable data. Verbal administration is more time consuming but it can help make sure that people understand the questions being asked of them. Written surveys have the advantage of being confidential, so people often provide more honest responses.

There are a range of publicly available court user surveys, which aim to gather information on court user perceptions and experiences but it is useful to develop a survey that suits your local context. A sample survey drawn from the Global Measures of Court Performance document put together in support of the International Framework for Court Excellence can be accessed online at: **https://www.courtexcellence.com/resources/global-measures**