



# PACIFIC JUDICIAL STRENGTHENING INITIATIVE

## PROJECT COMPLETION REPORT

### STRENGTHENING HUMAN RIGHTS IN PACIFIC COURTS

*September 2016-May 2021*

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**FEDERAL COURT  
OF AUSTRALIA**



*PJSI is funded by the New Zealand Government and  
implemented by the Federal Court of Australia*

## 1. Introduction

### **Overarching Aim of PJSI Human Rights (Substantive Justice) Component**

The core aim of the Human Rights component of the PJSI was to enhance the quality of substantive justice delivered by Pacific Courts by increasing capacity of the courts to apply human rights standards in decision making - including in relation to responses to gender-based violence and tensions with customary justice systems - and, more widely, to apply a human rights-based approach to expand access to justice and increase procedural fairness.

### **Focus on Court Responses to Increasing Access to Justice for Disadvantaged Court Users**

This component necessarily focused on the particular groups of court users who face the greatest barriers to accessing justice and are more vulnerable to breaches of their human rights in Pacific communities. These include victims of family and sexual violence, children, people with disabilities, detainees and prisoners, people who are poor and live in remote locations, and unrepresented litigants.

### **Mainstreaming the Application of Human Rights Standards & Human Rights-Based Approach**

From the outset of this component it quickly became apparent that courts required more than technical support with applying human rights standards in court decisions, but rather what was needed was a mainstreamed, all-of-court understanding of how human rights are relevant to all aspects of the function of courts; not only through the prism of international and national human rights standards but also through application of a human rights-based approach to the work of courts across all aspects of their functions, including in substantive justice but also in relation to procedural justice, access to justice and accountability of justice services.

### **Development of Resources to Translate Abstract Human Rights Concepts into Concrete Actions for Court Actors**

The Human Rights Advisor designed and rolled out a range of materials (Human Rights Toolkit and 6 thematic Human Rights Checklists) aimed at translating abstract human rights standards into actionable step by step guides for practical application of human rights into the daily roles of all classes of court actors.

These two core resources (the Human Rights Toolkit and Checklists) were used as the basis of a series of Human Rights workshops conducted in 4 countries (PNG, Tonga, Kiribati and the Solomon Islands) over the course of the Program, involving Chief Justices, court executives, judicial officers, court staff, and in some instances, also lawyers (Government, legal aid and private practitioners).

### **Human Rights Workshops Applying Interactive, Action-Focused Methodology**

The methodology used for the workshops was as follows. Each country was visited twice, to enable an introductory workshop and the development of human rights actions plans at both court and individual levels, and then an opportunity to circle back to the same courts and actors to further extend and consolidate their knowledge of human rights and to identify relevant behavioural and other changes effected since the first workshops, measured against their plans. The workshops themselves were delivered using an interactive approach including a blend of presentations, case studies, role plays, group exercises, quizzes and discussions, culminating in participants developing court and individual human rights action plans relevant to their contexts.

### **Regional Human Rights Activities**

The Human Rights Advisor also contributed to a number of important regional activities, including presenting sessions at two Chief Justice Forums (PNG 2016, Samoa 2017) and two regional workshops along with the Access to Justice and Gender and Family Violence Advisers (Vanuatu 2018) and with the Access to Justice



Advisers (PNG 2021) focusing on methodology for trainings on gender and family violence. These activities gave participants the opportunity to learn from each other and also to expand their network of contacts around the region for ongoing work on strengthening the application of human rights, access to justice and responding to family and sexual violence.

### **Legal Aid Systems and Lawyer Association Projects Reinforcing Human Rights Component**

While framed as a separate component of the PJSI program, the Human Rights Adviser also undertook detailed research/mappings and produced a [Situation Analysis of Pacific Legal Aid Systems](#) and a [Situation Analysis of Pacific Lawyer Associations](#). These were reworked into a range of shorter and presentation formats and used to connect court actors with legal aid and lawyer association actors in a series of important dialogues around the need for strengthened legal aid services and lawyer associations. These activities strongly complemented the work completed within the human rights component and enabled synergies to be drawn across the wider spectrum of justice actors who play key roles in protecting the human rights of Pacific citizens and communities.

## **2. Activities/Inputs & Outputs**

### **2.1 Human Rights Resources Developed**

#### **Human Rights Toolkit (October 2017, revised May 2021)**

The first resource developed was the Human Rights Toolkit which provided entry point information regarding human rights treaties and the centrality of human rights and a human rights based approach, to the work of Pacific courts. The Toolkit provided key resources including:

- Summaries of key human rights standards and their applicability to the work of courts.
- Methodology and step by step guidance for addressing clashes between human rights and customary law
- Step by step guidance for removing barriers for particular groups of court users in accessing justice and upholding their human rights.
- Summaries of decisions made by Pacific courts where human rights standards are applied or discussed.
- Guidance for creating welcoming and inclusive courts
- Step by step guidance and examples of how courts can develop their own Human Rights Action Plans that can be incorporated into regular court planning processes.
- Materials to support individual court actors (judicial officers and court staff) to develop their own individual human rights plans identifying specific areas to concentrate on in their specific professional practice roles.
- Guidance on disaggregation of court data so that human rights analysis of court performance is possible.

#### **Thematic Human Rights Checklists (6) and Human Rights Indicators (August 2020-February 2021)**

The second key resource developed and rolled out was a series of six thematically-based Human Rights Checklists, designed to be used alongside the Human Rights Toolkit, to further support coordinated 'best practice' actions to apply human rights in the daily practice of judges, magistrates and court staff.

The content of the checklists was built on the knowledge gained from working with court leaders, judicial officers and court staff in 4 Pacific Courts and identification of the need for more detailed step by step guidance to apply international and national human rights standards through coordinated approaches across the courts.

The Checklists provide targeted guidance for court leaders, judicial officers, and court staff, recognising that each have important and distinctive roles to play in strengthening court implementation of human rights. The



guidance is broken down into common stages of court cases; pre-hearing, during hearing and post hearing, so that court actors can readily follow them step by step and check off the steps they have taken, as they go. The Checklists also include a table containing *Standard Recommended Court Form Disaggregated Data Fields* setting out the key human rights-related data fields that courts need to be able to capture and track to strengthen the human rights work and performance of courts, including regarding issues of gender, age, disability, outcomes regarding gender based violence, access to legal aid and court fee waivers, amongst other human rights indicators.

The Checklists were piloted in several Pacific countries and then refined based on the feedback received. The full series of Human Rights Checklists include:

- [Checklist 1: Minimising Pre-Trial Detention](#)
- [Checklist 2: When juveniles/children come to court](#)
- [Checklist 3: Judicial visits to places of detention](#)
- [Checklist 4: When victims of family or sexual violence come to court](#)
- [Checklist 5: When people with disabilities come to court](#)
- [Checklist 6: Creating welcoming, inclusive courts.](#)

## 2.2. Chief Justices Leadership Forums

- 7-9 September 2016, Port Moresby, PNG Presented outline of human rights component to Chief Justices
- 3-5 April 2017, Apia, Samoa, Presented Human Rights Toolkit to Chief Justices

## 2.3. Regional Workshops

**Substantive / Capacity Development Training-of-Trainers Workshop (Topics: A2J, GFV & HR)**, 12-16 February 2018, Port Villa, Vanuatu, Contributed to program development, materials and co-delivered 4 days of substantive justice training with Gender & Family Violence, & Access to Justice Advisers.

### **Gender & Family Violence workshop & materials (remote) 20-21 August 2020**

- Half day presentation on methodology for developing trainings on gender and family violence issues. (22 participants)
- 21 August 2020, (remote), PNG Centre for Judicial Excellence: Delivered half day session on methodology for developing workshops on Family and Sexual Violence.

### **Human Rights Checklist Regional Webinar 22 February 2021**

- Half day workshop introducing and discussing the Human Rights Checklists (24 participants)

## 2. 4. Human Rights Country Visits

### **Solomon Islands Human Rights Visit: 24 April-5 May 2017. Piloting of Human Rights Toolkit**

- Human rights workshop for Court Executive (7 key judicial and non-judicial actors) regarding integrating human rights into strategic court planning, budgeting and data capture.
- Three-day workshop “Human Rights in the Practice of the Solomon Islands’ District Courts’ attended by 13 Local Court Judges and 5 court staff.
- One day workshop for 4 court staff titled ‘Human Rights in the Practice of Solomon Islands Courts: Court Staff Workshop’
- 2 focus group discussions with court user groups, for institutional and non-institutional court users.



- 14 bilateral external meetings and site visits with key institutional actors and NGOs working on human rights and gender based violence issues.
- In-person briefings to New Zealand Deputy High Commissioner and DFAT justice advisors
- Visit, assessment and report on juvenile detention facility compliance with human rights standards provided to Chief Justice, as requested

#### ***Papua New Guinea Human Rights Visit: 20 November-1 December 2017***

- 2 day workshop for 40 District Court Magistrates
- 3 day workshop for 42 National Court Judges
- 9 bilateral external meetings and site visits
- Workshop with 14 village court judges
- Development of disaggregated data categories for capturing human rights performance

#### ***Kiribati Human Rights Visit: 4-16 June 2018***

- Two day workshop for 33 court staff to increase understanding of the relevance of human rights to their roles
- Three day workshop for 10 Single Magistrates and eight court staff to increase understanding of the relevance of human rights to their roles,
- In-depth discussions with the Chief Registrar and Chief Justice to identify capacity development needs and court planning to strengthen application of human rights in Kiribati courts.
- One day visit to North Tarawa to visit the Magistrates' Court and conduct facilitated discussion with five magistrates

#### ***Papua New Guinea Second Human Rights Visit: 26-30 November 2018***

- Three day workshop for 35 District Court Magistrates
- Two day workshop for 36 National Court Judges

#### ***Tonga Human Rights Visit: 3-15 February 2019***

- Three day workshop for 7 Magistrates
- Two day workshop for 7 court staff, 6 Ministry of Justice staff and two lawyers
- Six external meetings including with Minister of Justice, CEO of Justice Ministry, Family Protection Centre for Legal Aid and President of Law Society.
- In-person briefing for High Commissioner and Deputy High Commissioner for New Zealand

#### ***Solomon Islands Second Human Rights Visit: 23 September-4 October***

- 2 full day human rights workshop with Magistrates. (Total: 10 participants)
- 2 half day human rights workshop with High Court Judges (Total: 5 participants)
- 1 half day human rights workshop with District Court Judges and Court Clerks (Total: 12 participants)
- 1 half day human rights workshop with Court staff (Total: 24 participants)
- 3 meetings with the Chief Justice/Deputy Chief Justice (Total: 2 participants,)
- Total participants: 51.

#### ***Tonga Second Human Rights Visit 16 (remote) October-11 December 2020***

- Series of five workshops for Judges and Magistrates using the Human Rights Checklists (7 participants at each)



- Series of two workshops for court staff using the Human Rights Checklists (15 participants)
- Workshop for Tonga lawyers organised with the Tongan Law Society (51 participants)
- Total of 73 participants

#### ***Kiribati Second Human Rights Visits 20-22 January 2021 (remote)***

- Series of 7 sessions for Judges and Magistrates using the Human Rights Checklists (13 participants)
- Series of 7 sessions for Court staff using the Human Rights Checklists (14 participants)

## **2.6 Number and type of participants in human rights workshops**

<b>Court Actor</b>	<b>#</b>
Court executives	34
Judges	96
Magistrates	118
Local/Lay Magistrates	39
Court Staff	123
Others (lawyers, Ministry staff)	61
Participants in GFV CJE session	24
<b>Total</b>	<b>495</b>

## **2.7 Human rights workshop Results**

Total number of workshops: 43

<b>Country</b>	<b>% Satisfaction with activity</b>	<b>% Increase knowledge change</b>	<b>% increase self-assessed confidence/understanding</b>
Kiribati	91	71	45.5
Tonga	94	89	44
PNG 1	94	38	33
PNG 2	79	47.5	21
Solomon Islands	89	87	54
Solomon Islands 2	100	14	43
Tonga 2	82.5	81.5	69
Kiribati 2	82	72	70.8
HR Checklists webinar	100	N/A	N/A
<b>Average</b>	<b>90 (Results table target: 80)</b>	<b>62.5</b>	<b>47.5</b>

## **3. Results**

### **3.1 Outcomes:**



- **Increased awareness and knowledge of judicial officers and court staff regarding human rights standards and how they are relevant and applicable to their specific roles.** (Evidence: Average learning gain of 97% across 8 human rights country activities)
- **Increased application of human rights knowledge and guidance in day to day performance.** (Evidence: 2<sup>nd</sup> visit workshop results tracked against court human rights action plans)
- **Increased application/discussion/reference to international and national human rights standards in relevant countries' court judgements.** (Evidence: PaCLII published decisions, cases discussed during workshops)
- **Human rights needs taken into consideration in development of new court infrastructure.** (Evidence: Several examples of where human rights guidance taken into account in planning new court infrastructure: Tonga, Solomon Islands and Kiribati)
- **Increased efforts by judicial officers and court staff to explain and assist disadvantaged court users with court processes.** (Evidence: Self-analysis feedback provided by participants in 2<sup>nd</sup> visit workshops, (PNG, Tonga, Solomon Islands and Kiribati); observations of Chief Justice (PNG, Tonga))
- **Court staff better assisting disadvantaged court users and facilitating access to justice:** through patient and helpful attitudes, providing information, assisting with form filling, navigating court facilities, assisting people with disabilities, providing referral to other services) (Evidence: Self-analysis feedback provided by participants in 2<sup>nd</sup> visit workshops, (PNG, Tonga, Solomon Islands and Kiribati); observations of some judicial officers and senior court staff).
- **Judicial officers and court staff empowered to use their knowledge of human rights and in their daily performance and behaviours in their roles.** (Evidence: Judicial officers making more use of international and constitutional human rights standards in their judgments, more outreach activities completed or planned to remote communities; and visits to detention cells and prisons, eg PNG, Tonga)
- **Three out of four courts achieved multiple significant improvement/changes to strengthen application of human rights** (Evidence: See tracked results for Kiribati, Tonga and Solomon Islands in Annexes A-C.. Was unable to track improvements for PNG but strong self-assessment evidence of improvements in second PNG visit report (Annex D). Target was: three PICs make incremental progress towards achieving 1 priority change by June 2020, and its goal is achieved by 2021.).
- **Chief Justices and other senior court leaders now incorporating strengthening of human rights into court planning and resourcing decisions,** including regarding:
  - Court investment in building the capacity of judicial officers and court staff to apply human rights; (Evidence: Support across 4 countries for multiple PJSI human rights engagements, support for human rights training outside of PJSI in PNG, through Centre for Judicial Excellence);
  - Court resources allocated to human rights strengthening activities (Evidence: additional human rights track judge appointed to PNG National Court following 1<sup>st</sup> PNG visit)
  - Prioritisation of additional resources for activities relating to court outreach, public information and accessibility (Evidence: Kiribati outreach activities), court circuits (Solomon Islands), assistance provided by court staff for completing forms for fee waivers and Family Protection Order applications, (Tonga, Kiribati, PNG).



- **Knowledge of human rights integrated into on-boarding and professional development plans for judicial officers and court staff.** (Evidence: Human rights included in orientation program for judges in the Centre for Judicial Excellence)
- **Human Rights Checklists rolled out and in use in two countries and socialised with ten countries** (Evidence: Court adoption of Human Rights Checklists in Tonga, Kiribati following piloting, strong regional participation of 10 countries, 24 participants including 3 Chief Justices in the Human Rights Checklists launch webinar)
- **Courts capable of including human rights strengthening measures in court planning and working towards a human rights action plan/roadmap** (Evidence: Human rights roadmaps in place and progress made: Kiribati, PNG, Tonga, Solomon Islands)
- **Courts increasingly disaggregating data for human rights analysis** (see annual report data Kiribati, Solomon Islands,
- **Chief justices aware and following up on particular human rights issues afflicting their jurisdictions** (Solomon Islands: detention of juveniles; arbitrary detention: PNG persecution of LGBTIQ communities )
- **Quality human rights resources developed, disseminated across 14 PICS and introduced with workshops into 4 PICS for ongoing use by Courts to guide human rights strengthening approaches beyond the life of PJSI.** (Evidence: PJSI Human Rights Toolkit and Additional Resources, PJSI Human Rights Checklists, activity reports regarding dissemination and workshops introducing these resources)
- **See also Human Rights Output Completion Report 17 August 2016-31 March 2019 for further outcomes and evidence of change in each of 4 countries .(Annex D)**

### 3.2 Update Against Results Framework and Tangible changes in behaviour/performance

#### Kiribati:

9 key human rights improvements identified and seven implemented or substantially progressed. See below. The court in Kiribati also developed a Human Rights Roadmap for ongoing human rights strengthening following the completion of the PJSI program (See **Annex C.1**)

#### Most Significant Changes:

- Implementation and tracking of targets for hearing and finalising prioritised case types
- Disaggregation of data
- Expanded court outreach activities including mobile court Christmas Island, continuing Access to Justice activities in outer islands

#### Solomon Islands

19 key human rights improvements identified: 5 “done” or now “good”, 11 showing “some” improvement, and 3 not yet progressed. (See **Annex C.2**)

#### Most Significant Changes:

- Improved court assistance provided to victims of family and sexual violence
- Reduction in juveniles detained and increase in proportion receiving legal representation from Public Solicitor.



- Cases involving children held in closed court and in local languages
- Increase in court community outreach sessions during court circuits
- Efforts to address pre trial detention commenced

**Tonga:** 6 key human rights improvements identified: 2 implemented, 1 progressed and 3 not yet progressed, plus an additional 7 human rights improvements progressed (See **Annex C.3**)

#### **Most Significant Changes:**

- Magistrates and judges supporting unrepresented litigants
- Magistrates mediating questioning of victims of family/sexual violence from defendants/representative
- Improvement in response for juvenile cases (listed on same day, adjustment of environment)
- Positive human rights case law (ie Court decisions regarding sentencing in sexual violence case within marriage)
- Development of Court Disability Policy.

#### **Papua New Guinea**

20 recommended human rights improvements identified and indicators developed

Unable to assess progress against the recommended indicators but significant behavioural changes/improvements reported by activity participants, including system-wide changes. (See **Annex C.4**)

#### **Most Significant Changes**

- Empowerment of Magistrates to use their powers to address human rights concerns including :
- Referring human rights cases to National Court Human Rights Track,
- Increase in detention inspections by Magistrates
- Magistrates releasing detainees on bail or dismissing charges where persistent insufficient evidence
- Court user forums in District Courts
- Increase in individuals from court conducting community outreach activities.

**See also Human Rights Output Completion Report 17 August 2016-31 March 2019 for further outcomes and evidence of change in each country .(Annex D)**

### **3.3 Contribution to improving the quality of lives and wellbeing of citizens across the region in justices-related ways.**

*Through the work undertaken in the Human Rights component of the PJSI:*

- *There are now unique, highly relevant, easy to follow resources to guide all Pacific court actors in meeting their obligations to uphold human rights through their roles and coordinated across different court actors.*
- *Through the workshops, meetings and dissemination of human rights resources (Human Rights Toolkit and Human Rights Checklists), Chief Justices, judges, magistrates and court staff have gained improved knowledge of their specific obligations to uphold human rights and are now better equipped with the necessary knowledge and empowerment to apply these in practice.*



- *As a result, citizens across the Pacific who are victims of family violence, children, people with disabilities, detainees and poor/disadvantaged people from remote communities now receive improved support and outcomes more compliant with human rights standards when they seek access to Pacific courts.*
- *In addition, Courts have the tools to drive their own continuous improvement regarding human rights implementation through continuing to further develop and implement their Human Rights Action Plans and by capturing, analysing and monitoring disaggregated data and feedback from court users.*
- *This will drive further improvements in court responsiveness to human rights issues, which will be experienced by individual court users and contribute more widely to strengthening the rule of law in Pacific societies.*

#### 4. Lessons & Recommendations

The work performed within the PJSI Human Rights Component sought to strike a meaningful balance between providing technical support at a country level through the workshops, (which were each framed around the specific Constitutional provisions and national laws of each country) while also identifying common challenges and gaps across Pacific jurisdictions, which could be meaningfully addressed at a regional level by developing regional-level human rights resources.

It was hugely beneficial to undertake follow up visits to each of the four countries as this allowed for development and consolidation of human rights knowledge while also the opportunity to work against specific country and individual human rights action plans

Focuses for future programming in human rights could include:

- Develop generic court and public information materials in the forms of posters and pamphlets on human rights themes which can be readily adjusted for country-specific purposes. For example, a pamphlet/poster series explaining court fee waiver applications, services offered by the court for particular user groups (such as children, victims of family and sexual violence, people with disabilities, detainees, other disadvantaged groups).
- Develop capacities of national ToT teams to continue providing introductory human rights training to judicial officers and court staff and incorporate into all induction syllabus for all new court appointments.
- Develop country specific human rights projects and support their implementation. There were many areas which could have benefited from further development, such as:
  - Support Courts to develop and commence implementation of Court Disability Policies
  - Support Courts to increase data disaggregation and develop colour coded filing systems for easy identification of cases involving vulnerable court users and other case management systems to identify and meet targets for prioritising these cases.
  - Support the Court in the Solomon Islands to collaborate with the National Court in PNG in order to develop Human Rights Rules to enliven provisions of the Constitution for enforcement of human rights
  - Support the Court in the Solomon Islands to develop and implement a strategy to reduce the incidence and duration of pre-trial detention.



- Work with courts to publish more judgements on PaCLII and work with PaCLII to include a library of Pacific human rights resources on the website and upgrade searchable terms in court decision so that any cases mentioning key human rights treaties or themes could be readily searched. In addition, or the alternative, it would be helpful to have a collection of Pacific cases involving human rights grouped on the website, incorporating the work already done through the Human Rights Digest.

## 5. Conclusion

The PJSI Human Rights Component has catalysed a new way of understanding the role and responsibility of courts, as one of the three pillars of the state, to protect and uphold human rights standards in all aspects of their function. The Component has also sparked a wide range of changed behaviours by court leaders, judicial officers and court staff through providing a broad-based program of human rights workshops to empower court actors, teamed with practical guidance on how these human rights obligations translate into specific actions to be taken.

Across Pacific courts there are many Chief Justices and other court leaders who are now champions of human rights and who are now armed with the resources to maintain this momentum and to guide continuing change at an institutional level in their courts.

## 6. Annexures:

- A. Project Terms of Reference
- B. Summary of Inputs/Activities & Outputs
- C. Most Significant Change in each Partner Court – supporting documentation, media releases, quotes etc.
- D. Human Rights Output Completion Report 17 August 2016-31 March 2019 for further outcomes and evidence



## Annex A: Project Terms of Reference

### C.A.2 (i) Terms of Reference: Human Rights Adviser

#### 1. Goals & Objectives

The Government of New Zealand is funding the Pacific Judicial Strengthening Initiative (PJSI), which is being implemented by the Federal Court of Australia for a 2-year extension period between June 2019 and May 2021.

The goal of PJSI is to build fairer societies by supporting the courts in 15 participating Pacific Island Countries (PICs) to develop more accessible, just, efficient and responsive justice services.

Participating PICs are the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu. PJSI reports to the Chief Justices of these PICs and to the Pacific Judicial Conference which convenes biennially.

PJSI addresses numerous and diverse needs within participating courts that relate to three major development challenges: (i) expanding access to justice to and through the courts; (ii) building competent provision of substantive justice outcomes; and (iii) increasing efficient delivery of procedural justice services. To address these challenges, PJSI focuses on supporting two long-term objectives:

- a) *Judicial Leadership* → courts being capable of leading and managing change.
- b) *Performance* → court services being accessible, responsive, fair and efficient.

PJSI delivers services to support the courts to attain these objectives using strategies to transfer, build, devolve and localise capacity. These strategies consolidate five thematic areas: judicial leadership, access to justice, professionalisation, substantive justice and procedural justice.

#### 2. Activity Description

##### a. Purpose

The purpose of these activities under the PJSI's *Human Rights* (Project 10) is to consolidate the capacity of the courts to apply human rights standards in decision making - including in relation to responses to gender-based violence and tensions with customary justice systems - and, more widely, to apply a human rights-based approach to expand access to justice and increase procedural fairness.

##### b. Duration and location

This short-term assignment requires the Adviser to work up to 99 input-days to fully complete all activities defined in Part f., below. Inputs will need to be undertaken between June 2019- May 2021; remotely across the region, in-country and online with up to three Partner Courts; and via regional activities, as specified.

##### c. General Approach

The Adviser(s) should adopt the following approach to completing this assignment:

- a) To transfer, build, devolve and localise capacity in all interactions with counterparts and mentor counterparts where appropriate in a culturally appropriate and respectful manner.
- b) Produce high quality, concise and accurate documentation, reports, and correspondence as required in a timely fashion and written in plain English.

5



#### d. Baseline

The Human Rights Toolkit has been disseminated among all PICs. Three PICs are aware of human rights norms applicable to court practices, are demonstrably enthusiastic and have begun implementing positive changes aligned with Human Rights Action Plans during Phase 1. PICs have reported progress towards the achievement of their goals.

#### e. Outcomes & Outputs

The target for the *Human Rights* Project is that three PICs make incremental progress towards achieving 1 priority change by June 2020, and its goal is achieved by 2021. Indicators of those outcomes are:

- ☑ Identification of a priority human rights-related change, committed to by each Chief Justice;
- ☑ The number, nature and sufficiency of actions taken by each PIC to progress each change and achieve its goals; and
- ☑ Progress towards, and achievement of the goal is reported.

To achieve these Outcomes, the Adviser will deliver the following outputs:

1. In-country support / local workshop(s) provided to 4 Partner Courts and follow-up support provided to 4 Partner Courts that received support during PJSI Phase I to promote improved compliance with human rights standards in decision making. Support will include consideration of, and strategies to, enable access to justice and protection of rights in COVID-19 and other crisis situations. That should include:

1.1 Assessing progress made to date by 3 PIC courts to implement their Human Rights Action Plan.

1.2 Agreeing with the judicial leadership of each of the 3 PICs, a priority human right- related change (or changes) they wish to make by the end of PJSI.

1.3 Based on progress made during PJSI Phase 1, supporting the 3 PIC to develop a comprehensive plan to feasibly deliver on the agreed human rights goal/s, cognisant of the local operating environment, capacity and resources. Integral to this is the ability to ensure that people's human rights are respected procedurally and substantively by PIC courts.

2. Up to 6x Human Rights checklists/ resource pamphlets for Partner Courts to use in common 'case types' or addressing particular themes. Where relevant, these checklists/ pamphlets will also include consideration of mitigation measures for access to justice and protection. A 1½ -2 hour online webinar, tentatively scheduled for 11 February 2021 (TBC), is a likely option for distribution and awareness raising of these checklists/resources across the region, and how to use them.

3. Remote/online Gender & Family Violence training session (to be shared with the *Career Pathway Project*) and materials piloted remotely for future delivery across the region.

4. Supporting the 3 PICs to implement the plan and report on progress.

5. Presentation on progress at the Chief Justices' Leadership Forum (TBC).

6. Contribute where feasible to the programmatic objectives of court performance and accountability data collection, including gender and GFV-disaggregated data.

7. Human Rights Toolkit reviewed/extended and refined.

#### f. Inputs & Activities

Prior to mobilisation, the Adviser will be briefed by the PJSI Technical Director and Team Leader.

The Adviser will then develop an implementation plan for approval by the Technical Director.

The 2-step regional → local capacity-building modality adopted in PJSI Phase I will be 6



complimented by follow-up support to promote uptake of interim results by delivering the following inputs and activities:

- ☐ 4 x in-country visit (up to two working weeks in-country) and 4 x remote/online inputs with Partner Courts that received support in Phase I, with proposed locations: PNG, Kiribati, Solomon Islands and Tonga.
- ☐ Up to 6 x Human Rights Checklists/ resource pamphlets developed; and distributed to the region via an online webinar (approximately 2 hours' in duration), to raise awareness and how to use the checklists/resources. Tentatively scheduled for 11 February, 2021 (TBC).
- ☐ 1 x Gender & Family Violence training session + materials piloted remotely for future regional delivery.
- ☐ 1 x review / update of Human Rights Toolkit.
- ☐ Input and participation at up to 1x Chief Justice's Leadership Forum, if required (TBC).
- ☐ Remote follow-up with counterparts to support ongoing activities, and to support PJSI evaluation, as required.
- ☐ Any other activities noted in the implementation plan developed, or necessary to achieve the defined outputs.

All activities and progress within this Project are subject to approval by the region's Chief Justices and the PJSI Executive Committee. The timing of all activities will be discussed and agreed in writing between stakeholders.



## Annex B: Inputs, Activities and Outputs

### Activity data

The table below provides further details about each activity, including its title, location, date, number and gender of participants, mean satisfaction ratings and mean learning gain that the TA has worked on.

Activity	Activity Type	Location	Date	Project	# Pax	% Female	Community Consultations pax	Avg satisfaction	Avg learning gain
<b>2016</b>									
1 <sup>st</sup> Chief Justices Leadership Forum	Regional	PNG	7-9 Sep	Human Rights					
<b>2017</b>									
2 <sup>nd</sup> Chief Justices Leadership Forum	Regional	Samoa	3-5 April	Human Rights					
Piloting of HR resource / toolkit	Regional	Solomon Islands	24 Apr - 5 May	Human Rights	39	33%	0	90.00%	348.00%
Local Visit #1	Local	PNG	20 Nov - 1 Dec	Human Rights	87	30%	0	94.44%	74.00%
<b>2018</b>									
Attendance at PJSI Substantive ToT Workshop (Item Note)	Local	Vanuatu	12 Feb - 16 Feb	Leadership Incentive Fund	1	100%	0	-	-
Substantive / Capacity Development Training-of-Trainers Workshop (Topic: A2J, GFV & HR)	Regional	Vanuatu	12 Feb - 16 Feb	Localising Professional Capacity Building	22	55%	0	90.20%	117.00%
Local Visit #2	Local	Kiribati	4 Jun - 15 Jun	Human Rights	58	64%	0	93.06%	70.50%
Human Rights Workshop (Judges)	Local	PNG	26 Nov - 30 Nov	Leadership Incentive Fund	36	19%	0	71.00%	59.00%
Human Rights Workshop (Magistrates)	Local	PNG	26 Nov - 30 Nov	Leadership Incentive Fund	35	43%	0	87.00%	36.00%
<b>2019</b>									
Local Visit #3	Local	Tonga	3 Feb - 15 Feb	Human Rights	26	54%	0	95.15%	88.50%
Applying Human Rights in Solomon Island Courts	Local	Solomon Islands	23 Sep - 4 Oct	Human Rights	51	47%	0	100.00%	14.00%
<b>2020</b>									
Bar Associations Strategy Paper	Remote - Regional	Remote	1 Mar - 1 Mar	Bar Associations	0	0%	0	-	-



Legal Aid Systems Strategy Paper	Remote Regional	Remote	1 Mar	Legal Aid Providers					
Gender & Family Violence workshop & materials piloted remotely (undertaken jointly with Career Pathway Workshop 2)	Remote - Regional	Remote	20 Aug - 21 Aug	Human Rights	0	0%	0	-	-
Human Rights Engagement Activity #2	Remote - Local	Tonga	16 Oct – 11 Dec	Human Rights	73	59%	0	73.33%	66.00%
Human Rights Checklists	Remote - Regional	Remote	1 Sep - 1 Dec	Human Rights	0	0%	0	-	-
<b>2021</b>									
Human Rights Engagement Activity #3	Remote - Local	Kiribati	20 Jan - 22 Jan	Human Rights		0%			
Human Rights Checklists Webinar	Remote - Regional	Regional	18 Feb - 18 Feb	Human Rights	24	42%		100%	N/A
Legal Aid Webinar	Remote - Regional	Remote	15 Mar - 25 Mar	Legal Aid	51	33%		76%	
Bar Association Webinar	Remote Regional	Remote	18 Mar-25 Mar	Lawyer Associations	47	30%		94%	



## Annex C: Most Significant Changes – supporting documentation

### C.1 Human Rights Strengthening Initiatives in Kiribati Courts

#### 9 key human rights improvements identified and tracked by Kiribati Court

Agreed Area of Focus/Theme from first engagement	Status	Way Ahead
1. Disaggregation of data re gender, age and legal representation of most court parties	Implemented	Excellent that gender, age and legal representation status is now routinely captured in case data. Major improvement achieved. Further minor adjustments still needed: capture of disability and detainee data. Also criminal case monthly report template to include field for the age and gender of the victim (as well as the suspect) and of any witnesses and further break downs documented in family law cases.
2. Policies and procedures re time goals and prioritising certain kinds of cases	Implemented	Court now has time targets for final determination of cases involving children, victims of sexual abuse and domestic violence and people with disabilities). Court aims to hear prioritised cases within few weeks or one month and finalise cases within a maximum period of six months.
3. Development of human rights checklists to help guide judicial officers through case types likely to raise particular human rights issues	Implemented	6 Human Rights Checklists developed and piloted during this visit, January 2021.
4. System of diversion of juvenile cases and separate court hearing date for juveniles and informal arrangement of court furniture	Mostly implemented	Juvenile diversion program already in place and working well. Court hears juvenile cases on Tuesdays and court room furniture is sometimes but not consistently changed to make the court room less formal.
5. Clearer, more accessible court filing fee waiver policy and	Not implemented	Both judicial and court officers agreed to work on this. Next steps: <ul style="list-style-type: none"> <li>• Develop Court policy with eligibility criteria,</li> </ul>



<p>procedure and to publicise this through court outreach and public information</p>		<ul style="list-style-type: none"> <li>• Develop posters/pamphlets advertising this,</li> <li>• Review Magistrate Ordinance to check if assessment can be delegated to senior court officers rather than Chief Magistrate</li> <li>• Keep data on number of waivers applied for, and granted.</li> </ul>
<p>6. Court continue with, and expand, public information provision and court outreach programs, both in person and via public radio, pamphlets, posts and other written information formats. In particular, recommending that the Court undertake a new project - building on the Enabling Rights experience</p>	<p>Ongoing, progressing well</p>	<ul style="list-style-type: none"> <li>• During 2019 the Court established two mobile court services in different locations on Christmas Island, so that the court visits remote communities. Feedback from communities is they are very pleased with these new services.</li> <li>• Court aims to expand mobile court program to other remote islands if able to secure resources.</li> <li>• The High Court has also maintained regular outreach sessions to remote communities to provide community legal education and information, at the same time they conduct trainings for lay magistrates.</li> <li>• The Court maintains a team of trainers comprising the Chief Registrar, Chief Executive of Administration and other staff Planning another outreach visit in Feb 2021.</li> <li>• Have developed court information pamphlets by court clerks which are widely distributed, includes details of referral services.</li> </ul>
<p>7. Each court should be equipped with a referral list: a list of services (regularly updated), available in the local area for people with needs outside of those offered by the court. Court staff should be trained on how to undertaken responsible referral.</p>	<p>Not fully implemented</p>	<p>Court already has a public information pamphlet including referral service details. Judicial and court officers re-committed themselves to following through on developing a referral list, regularly updating it and ensuring it is distributed to all court and other public places.</p>

## Human Rights Road Map



## Pacific Judicial Strengthening Initiative

### *Roadmap Developed in Workshops for Judges/Magistrates and Court Staff for Strengthening Human Rights in Kiribati Courts*

Kiribati, 20-22 January 2021

This Roadmap was prepared in the course of the remote Human Rights Workshops held with the Kiribati Courts in January 2021. Noting that the Courts in Kiribati are already leaders in protecting many areas of human rights, it captures some of the key ideas discussed and agreements reached during the Workshops around prioritised areas for follow up and action in the coming months. It is hoped that these initiatives as discussed below can be incorporated into the Court's regular planning processes and progressed through a collaborative process of Magistrates, Judges and Court Staff together.

Actions to protect the human rights of court users (general)			
	Ideas Magistrates/Judge Sessions	Ideas Court Staff Sessions	Further comments/next steps
1.	Have some meetings with the court leadership and with judicial and court officers together to plan implementation of these ideas for protecting human rights in Kiribati courts.	Incorporate all of these ideas for protecting human rights into the existing Court development plans.	This is essential for ensuring that these plans are planned and budgeted for and monitored within the existing court planning framework. If they sit outside the planning framework then they will not receive the resources and ongoing attention they require.
2.	System for appointing court staff as focal points in cases involving victims of family/sexual violence, children, detainees and people with disabilities to work closely with the Magistrate/Judge to ensure human rights are protected in the pre hearing, during hearing and post	Court staff agreed that it would be possible to allocate court staff to these categories of cases. Agreed that the Human Rights Checklist provide clear guidance for making adjustments to court staff position responsibilities. Suggested need to create stronger relations of mutual respect between Judges/Magistrates and court staff	This change would have the greatest impact than any other in supporting the human rights of vulnerable court users. It would entail:  Review and change responsibilities of some court staff to create capacity for appointment of staff to support individual vulnerable court users.



	hearing phases of the case.	to achieve better coordination and results for court users.	<p>Court staff felt that with some reallocations of responsibilities, and training, this should be achievable within existing staffing levels.</p> <p>Work to create sense of non-hierarchical teamwork and partnership based on mutual respect between Magistrates/judges and court staff to coordinate responsiveness to human rights.</p>
3.	Agreed	Registry files to be colour-coded to ensure easy identification of cases involving victims of family/sexual violence, children, detainees and people with disabilities.	Coloured tape on the spine and cover of each file would be a cheap and easy way to alter existing files to put staff and magistrates/judges on notice that special attention/care is needed in the case. Also needs space in court registry form for notes to specify the special needs of the court user.
4.	Corporate services to take into account human rights considerations in new court house infrastructure design.	Agreed	Corporate services to review Checklist 6: Creating Inclusive and Welcoming Court which has a detailed list of human rights infrastructure recommendations and incorporate as many design features as possible.
5.	Establish High Court rules to create mechanism for implementation of s 17 of the Constitution for the enforcement of constitutional human rights.	Not discussed however there would definitely be a major role for court staff in assisting with screening complaints for those that may be justiciable, remitting complaints to relevant court as necessary and supporting the administration of the listing and hearing of human rights track cases filed in the High Court.	Carolyn to share PNG Human Rights Rules as an example based on a similar constitutional provision. Carolyn available to facilitate if requested introduction to PNG judges and court staff responsible for the Human Rights Track in the National Court so Kiribati can gain from their experience in developing a similar mechanism tailored to the Kiribati legal, social



			and cultural environment.
6.	Court to develop a referral list of external services available (e.g. women’s, children’s, disability organisations, People’s Lawyer, other lawyers, etc.) based on existing court information pamphlet and court staff to be trained on conducting referrals for court users and regularly update referral list.	Agreed	Court staff felt this could be incorporated into an existing court staff member’s role without difficulty. Referral lists are only as useful as they are accurate, and so regular updating and dissemination would also need to be included in the position description of this staff member.
7.	Judges and Magistrate to make special efforts to ensure unrepresented litigants, especially children, detainees and people with disabilities, have access to legal representation and where not, to take special care to provide information and support their participation in their case. Create court unrepresented litigant guide.	Court staff appointed as focal points to provide detailed information about the court process to victims, children, detainees and people with disabilities.	Agreed that this is a court responsibility and that the court cannot rely on or assume that another party, e.g. Prosecution or defence lawyer, has already provided this information. Carolyn to share unrepresented litigants guide from Tonga as an example, so that the court in Kiribati can develop a similar guide.
<b>Actions to protect the human rights of victims of family/sexual violence</b>			
	<b>Ideas Magistrates/Judge Sessions</b>	<b>Ideas Court Staff Sessions</b>	<b>Further comments/next steps</b>
8.	Agreed	Allocation of court staff member to look after victim/witness before and at court to ensure they feel safe. See Human Rights Checklist 4.	As per point 2 above, court staff felt that with some reallocations of responsibilities, and training, this should be achievable within existing staffing levels.
9.	Creative ideas for temporary waiting area for victims/witnesses or court staff to wait	Agreed	Review of current office space to see if there is a store room or other space which could be



	with victim/witness until their hearing starts.		repurposed as a temporary witness/victim safe waiting area, until new court is built with waiting area included in design.
10.	Fee waiver policy and public promotion. Possible delegate of power to decide fee waivers.	Agreed. Also collect data on number of fee waiver applications made, and number approved, so that the impact of this change in access to justice can be measured.	Include clear criteria for fee waiver in a policy and a poster/pamphlet setting out fee waiver criteria widely displayed in the community (health centres, market, government offices, police stations etc.) and in the court buildings. Review Magistrates Ordinance to see if Chief Magistrate can delegate fee waiver decisions to senior administration staff.
11.	Magistrates/Judges to mediate questions from defendant to victim/witness in family or sexual violence cases, rather than allow direct questioning by the defendant.		Agreed that judges/magistrates may also need to intervene and tightly control defence lawyers' questioning of victims or witnesses as well as defendants when they lack legal representation, to ensure that the tone is not aggressive, questions are relevant, victim treated with respect etc.
12.	High Court already has a curtain in place which is used in sensitive cases.	Curtain to be installed also in Magistrates courts so that victim/witness does not need to have eye contact with defendant.	
13.	Create "on-call" roster of Magistrates to hear urgent applications out of hours.	Not discussed.	Not a particular need at present but to consider if the volume of urgent cases increases. At present court staff alert the first Magistrate they can find for out of hours cases.
<b>Actions to Protect the Human Rights of Detainees</b>			
	<b>Ideas Magistrates/Judge sessions</b>	<b>Ideas court staff sessions</b>	<b>Further comments/next steps</b>



14.	Magistrates/Judges to refer unrepresented detainees to People’s Lawyer for legal representation or to other lawyers	Allocation of court staff member to work with magistrates/judges to look after while at court including providing information about the court process, court actors, process and etiquette, refer for legal rep if none.	As per point 2 above. Court staff felt that with some reallocations of responsibilities, and training, this should be achievable within existing staffing levels.
15.	Magistrates/Judges to actively monitor treatment and conditions of detainees at every hearing by observing physical condition of detainee and asking questions about conditions of detention and treatment by police.	Court staff also to be observant and alert to this issue.	Need for a procedure whereby judicial officers or court staff who have concerns that a child may have been mistreated or in insufficient conditions, can report these concerns to the Chief Justice or other relevant person/body for action
16.	Agreed	Collect monthly data on number and duration of pre-trial detainees and provide to the Chief Justice.	Court staff shared that this should not be too technically difficult to achieve.
17.	Magistrate/Judge to release on bail or conditions anyone whose pre-trial detention is dragging on to prevent it becoming unlawful by being arbitrary or unreasonable or to expedited hearing of case.	Raise “red flag” with Judge/Magistrate if detention is approaching 12 month mark	Magistrates and Judges already do this, however it would be good to have a system for monitoring and ensuring that no detainees ever get lost in the system. Where detention is dragging on, there should be a procedure so that this can be immediately brought to the attention of the relevant Magistrate/Judge for action, and if necessary, to the Chief Justice.
18.	Magistrate/Judges to carefully scrutinize applications for extension of detention and only grant where there is a valid, truly unavoidable reason		Magistrates are already doing this, but commit to digging deeper into the rationales put to them for extending detention.



19.	Consideration be given to establishing a roster of judicial visits to prison/places of detention to inspect conditions and receive complaints from detainees/prisoners.	Court staff would have roles in supporting these visits see Checklist 3.	With the provision of security to accompany the judicial officers.
<b>Actions to Protect the Human Rights of Children</b>			
	<b>Ideas Magistrate/Judge sessions</b>	<b>Ideas court staff sessions</b>	<b>Further comments/next steps</b>
20.	Agreed	Allocation of court staff to work with magistrates/judges to look after children at court See Human Rights Checklist 2.	As per above comments, court staff felt that with some reallocations of responsibilities, and training, this should be achievable within existing staffing levels.
21.	System for appointing pseudonyms for children for public listings and finalised public judgments.	Agreed that this was feasible based on existing systems.	Court already protects privacy of children by conducting hearings in closed court.
22.	Special attention paid to inquiring about condition/treatment of children who have been in police custody	Court staff also to be alert to the condition of children at the court and to follow up where they have concerns.	Need for procedure to alert Chief Justice to cases where children allege abuse or mistreatment by police, guards or other detainees/prisoners.
23.	Application of relevant laws based on age brackets: 0-9, 10-14 and 15-18		Discussions on relevant age brackets presented a welcome reminder of the different laws which may apply to different groups based on their age.
24.	Modifying process on day when children's cases are listed. Closed hearing, use local language and simple words, take time to explain process in detail to child, ensure they have a lawyer.	Ensure court room furniture arranged into less formal arrangement, meet child, provide information in local language, and ensure legal representation.	Great progress has already been made in this area.
<b>Actions to Protect the Rights of People with Disabilities</b>			



	Ideas Magistrate/Judge sessions	Ideas court staff sessions	Further comments/next steps
25.	Court development of a disability policy based on consultation with people with disability.	Agreed, and training provided to all court staff.	Carolyn to share with the Court copy of Tongan Court Disability Policy as a strong example.
26.	Agreed	Allocation of court staff to work with magistrates/judges to look after people with disabilities at court See Human Rights Checklist 5.	As per above comments, court staff felt that with some reallocations of responsibilities, and training, this should be achievable within existing staffing levels.
27.	Agreed	Disability access considered and budgeted for in court infrastructure needs.	Also to be discussed with the Chief Justice.
28.	Requesting more medical evidence to help assess approach to cases.		There are relevant medical professionals in Kiribati who could provide this expert evidence.
29.	Agreed	Include disability on court data form with space for noting nature of disability and needs so that all relevant court.	Court staff shared that this should not be technically difficult to achieve.
30.	Agreed	Colour coding on the file and recording of information re nature and needs of disability.	This would work best if colour coding and recoding of information was present in both hard copy and electronic files/records.
31.	Auslan training for staff and judges and use of as needed.	Agreed. Court staff can support these functions.	The School for people with disabilities has a number of teachers with relevant skills who could assist the Court with interpreting as needed.
32.	Scale up community outreach and information on court support for people with disabilities.	Develop posters and pamphlets highlighting the help available from the court to people with disabilities.	It was agreed that conducting outreach conversations with people with disabilities, to ascertain the barriers and issues they experience, would help assure the relevance of the Court Disability Policy and other actions taken by the Court to become more inclusive.



## C.2 Human Rights Strengthening Initiatives in Solomon Island Courts

19 key human rights improvements identified and tracked by Solomon Island Courts

### HUMAN RIGHTS ACTION PLAN FOR SOLOMON ISLAND COURTS

Short Term Low Cost Actions to Strengthen Application of Human Rights in Solomon Island Courts						
Area of Focus	Recommendation: What	Possible Indicator	Rationale: Why	Resources Required	'Progress made'* in 12 months	Implementation comment
<b>1.Data Capture</b>	*Include further 'fields' in the existing Justice Information Management System (JIMS): (see Annex 1) *Train court data entry staff *Encourage other institutions in justice chain to adopt and use similar fields in JIMS to track attrition and other trends across the justice chain.	Court Data Collected and Disaggregated as per Annex 1: Y/N	To collect the data necessary to report on the Cook Island Indicators and enable better analysis and monitoring of 'access to justice' and human rights issues in the courts	*0 for amending JIMS as already have consultant *Approval by committee *Training for court data entry staff	None <b>Some</b> Good Excellent Done	
<b>2.Family/Civil Cases</b>	*Ensure a minimum ratio of 1:5 court time is dedicated to family and civil cases compared to criminal cases. *In each Magistrate's Court, (regular and circuit) dedicate a court room and an appropriately trained and experienced judge for minimum one but ideally two days per week of hearings to exclusively hear	No. of regular and circuit courts to meet minimum 1:5 ratio of court time dedicated to civil: criminal cases	This is to prevent criminal cases running over time and 'bumping off' the hearing of family/civil law cases. It is also to bring more consistency of approach to judging such cases by creating a degree of 'specialisation' in the judiciary	*\$0 for implementation. *15mins per week of staff time to monitor.	<b>None</b> Some Good Excellent Done	<b>No changes as yet to scheduling of civil listings.</b>



	<p>family/civil cases. (minimum ratio 1:5, civil cases, also to be included in Court Circuits) *Court staff monitor implementation of this.</p>					
	<p>*Print large posters and display them around the Magistrates' Courts and other locations (ie Public Defenders' Office, health centers, police stations, other public places and places that women frequent) <b>setting out civil case court fee waiver criteria and process.</b> *Ensure that all staff receiving court applications for filing are required to ask each person if they would like to apply for a court fee waiver and where relevant, assist them in doing so *Monitor staff compliance and number of court fee waivers applied for and issued (disaggregated by gender, age and disability). (Could develop an indicator and target)</p>	<p>Poster produced Y/N No. of posters disseminated: % of court users who confirm (in court exit survey) they were asked if they would like to lodge a court fee waiver application: No. Court fee waivers applied for by M/F/Child/PWD No. Court fee waivers granted to M/F/Child/PWD</p>	<p>There is a need to increase public awareness of, and access to court fee waiver criteria and processes. At present the court does not proactively share this information or encourage applicants to apply for court fee waivers. While the law providing for waiver of fees is clear, there remains some uncertainty amongst court staff about who is eligible and their role in helping people to apply.</p>	<p>*\$500 for posters *½ day training for court staff Monitoring: *Staff time for exit survey</p>	<p>None <b>Some</b> Good Excellent Done None Some Good Excellent Done</p>	<p><b>Pamphlet outlining court fee waiver eligibility developed</b></p>
	<p>*Introduce ticket queuing system at all Courts for filing applications/asking court staff questions.</p>	<p>Ticketing queuing system introduced: Y/N</p>	<p>To stop people pushing in the queue (often men) and to help vulnerable groups not lose their place in the queue.(ie those who find it</p>	<p>\$5 for laminated cards ½ day training for staff</p>	<p>None Some <b>Good</b> Excellent Done</p>	<p><b>Observed in use in Magistrate's Court Honiara</b></p>



	*Need numbered laminated cards, each person takes a ticket and can then move freely around or sit down until their number is called.		difficult to stand or have to keep track of small children etc.)			
<b>3. Access to child/spousal Maintenance</b>	*Chief Justice to issue guidance to judges regarding the orders they can make for practical options regarding payment of maintenance, including direct deposit of maintenance funds from the respondent into the applicant's account. *Compliance with guidance monitored by administrative court staff in all maintenance cases	Guidance issued by CJ: Y/N  % of maintenance orders made for direct payments to be made between respondent and applicant	To reduce delays in payment of maintenance and more ready access to maintenance payments. While judges already have the power to order direct payment, many still order that maintenance funds be deposited into the court account which then takes weeks or months to go through treasury processes and must then be collected by the applicant in person from the court. Many applicants are dependent on these funds and cannot afford delays and are unable to travel regularly to the court to receive their payments	*\$0 to implement *30 mins court staff time per week to monitor	<b>None</b> Some Good Excellent Done	
<b>4. Sensitive Family/Criminal Cases</b>	In each Magistrate's Court, identify *A <b>separate entrance</b> to the court facility for women and children involved in sensitive cases. *A <b>separate waiting area</b> from other court users	No. Mag Courts with separate entrance for court users involved in sensitive cases:	Many service providers expressed concern that many women and children involved in sensitive cases (family, civil and criminal) face harassment,	*\$0 to implement *Guard for separate entrance	None <b>Some</b> Good Excellent Done	



	<p>Options for these were identified in the Central Magistrate’s Court which could be immediately used at little or no cost. There is a separate rear entrance to the court facility which could be used immediately. It is close to the existing juvenile court facility, located at the rear of the Magistrate’s Court, where women and children could wait until their case comes on for hearing. The existing civil court staff located in that building could notify the Magistrates court of their arrival and receive notification when the court was ready to hear their case. They could be escorted by a court staff member into the correct Magistrates Court room.</p> <p>*It would be advisable to have a security guard present at the rear entrance.</p> <p>*It would also be advisable to ensure that the planned renovation of this juvenile court facility retains a separate waiting area for women Magistrate Court users as well as waiting rooms for children using either the Magistrate or Juvenile Court.</p>	<p>No. Mag Courts with separate waiting areas for court users involved in sensitive cases</p>	<p>intimidation, threats by other related parties or idle curiosity causing loss of confidentiality, by others, while they are waiting in public waiting areas of the court for their cases to be heard.</p>	<p>*½ day training for court staff</p>		
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	*Ensure each court has one or two mobile screens that are brought into the court room before sensitive cases are commenced to prevent eye contact between suspects and victims.	% cases involving violence against women and children when screen used in hearing	Many service providers expressed concern that eye contact between victims, suspects, witnesses etc during sensitive cases may traumatize or intimidate victims/witnesses of violent crime including sexual crimes. This could effect the evidence given by victims/witnesses and create a negative experience of using the justice system.	*\$1000 for screens *½ day training for court staff	None Some Good Excellent <b>Done</b>	
	*Inclusion of relevant civil society service providers (eg. Family Support Center, SafeNet, SafePlace, Bar Association etc) in regular Court User meetings	No. Court user meetings attended by civil society service providers:	At present the Court User’s Meeting is limited to institutional actors. The Court is not well connected to others who provide services closely linked to the work of the courts. This is depriving the Court of information needed to better respond to the needs of disadvantaged and vulnerable court user groups.	*Marginal \$: invitations and snacks for extra guests	None <b>Some</b> Good Excellent Done	
	*Court representation and regular attendance at SafeNet Network meetings to discuss coordination mechanisms (not individual cases)	No. SafeNet meetings attended by Court representative:	The Court is not currently linked into efforts by both institutional and non-government service providers across the justice	*3 hours per month of staff time	None <b>Some</b> Good Excellent Done	Not regular consistent attendance, but



			chain to offer more holistic and reliable services to victims of family violence. Providing these meetings do not discuss individual cases (which could prejudice trials) there is no risk to judicial independence to improve its coordination with other relevant actors.			some attendance
5. Juvenile Cases	<p>*Courts to immediately review (using correct legal test) necessity of remand for each detained juvenile and to release as many as possible into care of community guarantors with community-based restrictions (such as regular reporting to the local police station and attendance at court hearings)</p> <p>*This may require system of guarantors and for corrections/courts to provide subsistence living costs payment to guarantors providing accommodation to released juveniles who meet their reporting conditions</p>	<p>No. detention review hearings conducted for juveniles: No. juvenile released:</p>	82% of juveniles in custody are remanded.	*Cost saving: payments to guarantors much lower than costs of detention and transfers to and from court each month.	<p>None <b>Some</b> Good Excellent Done</p>	<b>Some juveniles released after report provided to the CJ following first visit.</b>
	<p>*All cases involving children heard in closed court (<b>Done</b>)</p> <p>*All cases involving children, suppress name of child in court</p>	% cases involving children heard in closed court:	Protecting the privacy of child court users is necessary to meet minimum international standards and	<p>*\$0</p> <p>*Judges trained</p> <p>*\$0</p>	<p>None <b>Some</b> Good Excellent</p>	



	listing, judgement and other public records ( <b>in progress</b> )	% cases involving children with names suppressed in listings: % cases involving children with names suppressed in judgements:	can be readily achieved through training judges and court staff, with very little implementation cost.	*Court staff trained	Done	
	*All hearings involving children to be conducted in the language the child prefers/best understands *Court staff consistently ask children about their language preferences and work to meet these.	% of hearings conducted in language of child's choice:	Juveniles complain that often they cannot properly understand court staff or proceedings due to language issues and that they preferred everyone to use Pidgin or local languages, not English.	*Most courts should be able to work in Pidgin without extra cost *May need \$ for local language interpreters *Court staff and judges trained	None Some <b>Good</b> Excellent Done	<b>Changed behaviour of court staff in evidence</b>
	*Courts to accelerate the speed of trials of juveniles in pre-trial detention. *CJ to issue guidance restricting grounds on which adjournments can be given when case involves juvenile in detention.	Average time for detained juvenile's trial to be finalized: Baseline: Target: 4 months	Cases are regularly adjourned and delayed. Juveniles often do not know why. Stricter guidance on granting adjournments will pressure court actors to improve their	*Mainly cost-free as a change to 'way of working' *Staff member time to convene	None <b>Some</b> Good Excellent Done	<b>Chief Justice now full engaged in this issue and working</b>



	CJ to establish a task force involving Public Solicitor, Prosecution, Social Welfare to 'case manage' trials involving juveniles in detention		professionalism and ensure juvenile cases are prioritized and necessary actions accelerated. A monitored 'case management' system will help improve awareness and accountability for delays.	taskforce and 'case manage' trial process.		<b>on new Court Direction regarding adjournments in cases and detention of minors</b>
	<p>*Courts to ensure all juveniles/children accused of crimes have access to legal representation</p> <p>*May require court to liaise/coordinate better with PSO to establish duty lawyer' capacity at court.</p> <p>* Court to lobby for Public Solicitors Office to be granted more funding for lawyers to cover this demand or may require court to develop its own 'duty lawyer' capacity.</p>	% of juvenile criminal hearings conducted without defence lawyer present	Many children that come before the courts in criminal cases do not have access to legal representation. This is a major impediment to fair trials for children.	<p>*Possibly \$0 if PSO able to organize itself to meet this demand.</p> <p>*Limited \$ for lobbying</p> <p>*Significant \$ to establish court duty lawyer service</p>	<p>None</p> <p><b>Some Good</b></p> <p>Excellent</p> <p>Done</p>	<b>Public solicitor now guarantee legal representation to all detained children irrespective of charges. Following letter from PJSI advisor</b>
	<p>*Juveniles held (under guard) in waiting room at the Court and not in the holding cell with adults</p> <p>*Court staff assigned to regularly check on juveniles awaiting hearing</p>	<p>Practice changed: Y/N</p> <p>% detained juvenile say they were</p>	Court holding cell conditions are substandard and may constitute inhuman treatment.	<p>*Guard for juvenile waiting room</p> <p>*Court staff time for checking and</p>	<p>None</p> <p><b>Some</b></p> <p>Good</p> <p>Excellent</p> <p>Done</p>	<b>Court staff now regularly check on juveniles, but still</b>



	(ie need for water, food, bathroom, information)	attended to at court:	The mixing of juvenile and adult prisoners is prohibited in international standards. There is a ready and cost effective alternative available.	meeting juvenile requests *Court staff training on assisting juvenile court users.		<b>mixed with adult detainees in holding cell.</b>
	*Juvenciles transported to court in separate vehicle from adults (with adequate ventilation)	Practice changed: Y/N	Juveniles complained they are sometimes close to suffocation and suffer from heat exhaustion in the van they are transported to court in, along with adult male prisoners. These are inhuman conditions and mixing of juveniles with adult prisoners is contrary to international standards.	*Ordinary SUV with guard should be sufficient.	None Some Good Excellent <b>Done</b>	Juveniles now transported in separate vehicle to court
<b>6.Creating Welcoming Courts</b>	*Create a roster of 2 hour shifts from existing court staff covering all hours of court operation to 'rove' around the court proactively offering assistance to court users and offering 'court exit' surveys for court users to complete. *Analyse data from surveys to improve court public service. *Court staff to receive training on how to assist disadvantaged court users, in particular, people with	No. of courts to institute 'roving' assistance rosters: No. of courts to routinely provide exit surveys to court users:	All court staff (from senior to junior) should be rostered on for 2 hour shifts in providing court users with assistance. This is a good way to keep senior court administration staff in touch with court users' needs. A simple court exist survey is a great way to identify unmet needs in assisting the	*Training for all court staff *Minimum costs: Should be manageable within existing staffing levels.	None <b>Some</b> Good Excellent Done	Some roving court staff assistance positions in place



	disabilities, women, children, illiterate people and those from remote locations.		public to use the courts and can inform targeted reforms.			
<b>7. Court Outreach</b>	<p>*All Circuit Courts conduct at least 2 community outreach activities each time a court circuit is undertaken</p> <p>*All permanent courts to conduct at least 5 community outreach activities each year</p>	<p>% of circuits courts to complete min. 2 community outreach activities during circuit:</p> <p>% of regular courts to conduct min. 5 community outreach activities during the year:</p>	<p>Courts have very low visibility in communities, especially outside of Honiara. Communities are not aware of what courts do or what help is available. Tagging on' outreach activities to existing court circuits will be the most cost efficient way for courts to do community outreach activities and get better value from the investment made in running court circuits. Some court circuit staff could conduct the outreach activities while the court is sitting, or after court sittings to reduce costs.</p>	<p>*\$ for materials, and local transport.</p> <p>*Staff could do outreach while court sittings in session or after courts closed.</p>	<p>None Some <b>Good</b> Excellent Done</p>	<p><b>Courts do now conduct outreach sessions during circuits, but problem is circuits are still not regularly conducted</b></p>
<b>8. Court Management</b>	<p>*The Chief Justice holds the Court Executive to account for implementing and monitoring the above recommended measures</p>	<p>No. of objectives in this plan where CJ rates that 'some progress' or more has</p>	<p>This document can serve as the Courts' short term Human Rights Action Plan. During the coming year, a further planning process would ideally provide a mid-</p>		<p>None <b>Some</b> Good Excellent Done</p>	<p><b>Court Executive on board with human rights</b></p>



		<p>been made within past 12 months: ((See final column))</p>	<p>point review of this plan, plus add medium and longer term goals towards human rights implementation in courts.</p>			<p><b>implementation measures but monitoring still patchy.</b></p>
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### C.3 Human Rights Strengthening Initiatives in Tongan Courts

#### 6 key human rights improvements identified and tracked by Tongan Courts

Agreed Area of Focus/Theme from first engagement	Status	Way Ahead
<i>Victims of family/sexual violence:</i> Creation of a safe waiting area for victims/witnesses family sexual violence and children	Not progressed. Explanation: No available space.	Court to find a space. Previously, a store room had been identified as a possibility.
<i>Victims of family/sexual violence:</i> Ensure that magistrates/judges mediated questions being put by unrepresented defendants to victims/witnesses in cases involving child victims or victims of family/sexual violence	Implemented	All judicial participants said this had become a standard practice and was a useful tip following the last workshop
<i>Children/Juveniles:</i> Further piloting of family conference/circle sentencing process for sentencing juveniles	Some progress	While family conference process has not been further piloted, the court has made some further changes to the conduct of juvenile cases, including listing all juvenile cases on the same day and modifying the layout of the court room for juvenile cases.
<i>Access to Justice: Supporting unrepresented litigants</i> Taking time to provide thorough explanations to all unrepresented litigants and vulnerable parties regarding the legal process and their rights.	Implemented	All judicial participants said they had become much more sensitive this this had become a standard practice and was a useful tip following the last workshop
<i>Victims of family/sexual violence:</i> Designation of a court staff member with responsibility for developing and maintaining an up to date Court Referral List	Not progressed	For further discussion with Registrar/Chief Justice
<i>Access to justice: Response to Special Needs</i> Colour coding of files for easy identification of files involving vulnerable parties (people with disability,	Not progressed	For further discussion with Registrar



detainees, children and victims of family/sexual violence.		
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### 7 Additional Areas of Change Achieved Between First (2/2019) and Second Human Rights Activities (10/2020)

Area of Change	Change Effected
Access to legal representation	<ul style="list-style-type: none"> <li>• “Now I always ask if the accused has anyone to represent them in their case and try to find them help”</li> <li>• “Sometimes I will have private conversations with lawyers to try to arrange free representation for people who really need it.”</li> </ul>
Supporting unrepresented litigants	<ul style="list-style-type: none"> <li>• “I spend more time explaining everything to unrepresented litigants”</li> <li>• “Now I am taking more time to explain to unrepresented accused the procedure and what their rights are.”</li> <li>• “In criminal matters where the person is unrepresented I now give more attention to explaining to the person the procedure and their right to remain silent”</li> <li>• “Now I take special care to make sure that an accused person is treated as innocent until proven guilty when they come to court.”</li> </ul>
Supporting victims of family/sexual violence	<ul style="list-style-type: none"> <li>• “I now request and use victim impact statements in sentencing, especially in cases of family and sexual violence.”</li> <li>• “Now I spend more time explaining to victims of sexual violence their rights under the law and the assistance the law can provide”</li> <li>• “Now I refer victims of family and sexual violence to organisations like WCC, which can assist them”</li> <li>• “Now I order surveys of the home environments of victims of family or sexual violence to ensure their safety</li> </ul>
Adapting process for juveniles	<ul style="list-style-type: none"> <li>• Juvenile cases now heard on one day to reduce their contact with adults using the court</li> <li>• Court room lay out is adjusted</li> <li>• “I now more frequently request and use probation reports in sentencing”</li> <li>• “For juveniles, I am more open to leniency in sentencing due to the accused circumstances”</li> </ul>
Protecting the rights of detainees/prisoners	<ul style="list-style-type: none"> <li>• “We have a strong Bail Act which provides by right pre-trial release unless a particular exception is met. This is why our rate of pre-trial detainees is so much lower than some other Pacific countries.”</li> </ul>



	<ul style="list-style-type: none"> <li>• “Straight after the last workshops, I commenced a series of visits to prisons and conducted follow up to improve conditions each time. The women got lights in their room, the water tank was repaired so the quality of drinking water improved, the bedding was updated.”</li> </ul>
Adapting process for people with disabilities	<ul style="list-style-type: none"> <li>• A ramp was built in some of the magistrates courts in Tonga following the last workshop</li> <li>• “In cases where there is a person with special needs, I have taken time to work out their needs and how to best meet them. For example, I seated one person who had difficulty hearing close to the bench and the other actors so they can hear. I regularly checked to make sure that the person was understanding the process.”</li> <li>• I look out to make sure that people with disabilities are treated fairly</li> <li>• “I am flexible according to the needs of people with disabilities. For example, I make sure that people with movement disabilities can sit down and don’t have to stand in court”</li> </ul>
Creating a welcoming court environment	<ul style="list-style-type: none"> <li>• “Now I am more careful in my manner to ensure a friendly environments for litigants in all cases”</li> <li>• “I work to give everyone who comes to court the experience of equality in their treatment”</li> </ul>



## C.4 Human Rights Strengthening Initiatives in PNG Courts

### The key changes identified by participants catalysed by the first Human Rights Workshop

#### MAGISTRATES' REFLECTIONS ON CHANGES TRIGGERED BY FIRST HUMAN RIGHTS WORKSHOP NOVEMBER 2017

##### Action taken by Magistrates catalyzed by the first human rights workshop (Nov 2017)

- I conducted a human rights awareness program in local schools
- I now always explain to juveniles before the court the constitutional rights they have and how they can complain and enforce these rights.
- I'm not silent any more on human rights abuses by police. I'm firm with the police.
- I conducted Court User Forums and provided awareness about the importance of human rights issues
- After the workshop I ordered the release of all the people who had been detained without charge for one or two months.
- I now make sure my staff give equal time and respect to women and children court users.
- I have used the human rights treaties in making decisions and referred to them in my judgements
- I have worked with registry to engage the court staff in human rights issues.
- I am now able to identify human rights issues when they came before my court
- It helped me to change the way I was handling cases and also informed changes I made in dealing with the staff and systems in the court.
- I have encouraged staff to be more human rights conscious when they engage with the public
- I have myself become a better husband and father after going to that workshop.
- I have referred police brutality issues to the human rights track of the national court.
- When victims come to withdraw their case, rather than just accepting that now I take the time to explain to the victim the process, laws and avenues of support from the court
- I am now more mindful of human rights issues in my court.
- Now I know there is no excuse for violence and I have not been excusing anyone in my court
- I have become more aware of the human rights of my wife and children
- I have conducted awareness raising activities in my Church community. Many of them misunderstand human rights so after this workshop I felt I could explain it in a way that was correct and well understood.
- The workshop changed the way I handle cases. I included constitutional human rights provisions in a coronial inquest and several criminal cases. I took action by writing to Justice Cannings and the chief prosecutor to bring on criminal matters within a maximum of three days when they are detained



- I have increased the participation of stakeholders in the court by setting up committees and running awareness campaigns.
- I keep copies of the human rights rules and forms in my court and give them out and explain to people how to use them to make a complaint.
- I take account of international human rights in my decisions
- I engaged with my staff and my family and friends about human rights
- Now I list all my cases prior to hearing to give greater notice and access to justice
- I now require my clerks to be accountable for their time and at their duty stations ready to help people
- I am now more alert to human rights abuses that come up in my cases
- I am now more victim-focused in gender based violence cases
- I am now more aware of village court bias against women and more proactive so they do not need to rely on village court or overruling village court and making sure village court knows this has occurred
- Now I am aware that clerks often are slow in transmitting interim protection order applications to me. So I need to train them and hold them accountable to public service
- I now regularly go and speak to detainees about their human rights and I summons to court the actors responsible for detainees conditions including food, basic needs, and address cases where detainees say they have been assaulted by guards or police.

### **Factors that helped Magistrates achieve change following the first human rights workshop**

- The workshop assisted me to be bold and empowered about human rights issues and to use my position as a magistrate and the powers that I have.
- Knowledge of the treaties and discussion with others
- Availability of human rights rules and complaints forms in the courts
- Seeing two of my judgments published on Paclii was an inspiration
- Greater awareness of the link between sentencing and human rights.
- My role as a magistrate in the community
- A better understanding of constitutional requirements and human rights.
- Consultations with the Provincial Law and Order Committee in Madang and discussions with Justice Cannings about human rights issues in Madang. The human rights workshop was the catalyst for all this.
- Acceptance that human rights is everyone's business from the judges to the staff.
- When I rejected the idea that assault by police was just a routine part of being arrested and had the feeling I could really do something about that with my powers.



- The workshop resources supplied and the National Court human rights rules
- Clerks of the court were not willing to accept changes
- Awareness and knowledge of human rights and gender based violence
- The human rights toolkit has been very useful. I have referred to it often.
- Awareness of the constitutional provisions and the powers that Magistrates have to enforce human rights, not only in the national court
- Taking ownership and becoming an agent of change and taking issues up at the family and personal level and the community level as well as in the court.
- Better understanding of the human rights rules and the workshop materials to refresh my memories later on.

#### **Factors that hindered Magistrates achieve change following the first human rights workshop**

- Heavy workload, lack of time and lack of physical and mental energy to take on change progress
- Court staff being biased whether consciously or unconsciously or really not caring at all.
- Biggest problem is lack of cooperation by the police in serving and executing warrants and summons
- Workload and covering for other magistrates. Court staff are slow to learn and change and there is no time to provide them with greater awareness
- Low community literacy and the lack of a Family Support Unit in the Province
- Other stakeholders' misconceptions or lack of interest in addressing human rights concerns
- The clerk of court not willing to accept I was the new senior magistrate and that she needed to work with me
- Lack of coordination in the Province.
- Some of the circuit judges have different attitudes to human rights which do not help.
- Court staff not aware of the human rights referral forms for the registrar.
- Workload

#### **Change observed by Magistrates in others since the first human rights workshop**

- I have noticed that police officers now treat detainees better, now they know I am following up and checking with detainees about their treatment.
- Clerks who attended the last workshops were changed and different.
- Magistrates are now much more aware of human rights issues
- Police now grant police bail more often after I overruled detention several times
- There is more informed discussion about human rights within my court and staff making their own suggestions for improvements we can make



- Complainants are relieved that criminal cases are now dealt with more quickly. Police are more encouraged to arrest as their cases are being heard more quickly and less complaints from defendants as they spend less time in custody.
- Not a lot of changes by me. I didn't really follow through but will now after this second workshop which has reminded me about the importance of following through with human rights.
- Madang District Court now has a family friendly court.
- District courts are now utilizing Court User Forums (CUFs)

### **Most significant change observed or experienced by Magistrates since the first human rights workshop:**

- Knowledge of human rights and gender and family violence has made a very important contribution to my judgments
- Developing court forms and simplifying court processes for women and court users especially regarding service requirements, DNA testing, counselling process, referral to LP Office Child Welfare.
- For me it has been about the awareness I have created in others, court staff, court users and the public about human rights, and the way that I now treat the victims of gender violence in my cases and the way I provide my judgments.
- In the past, suspects were detained without charge for more than 3 weeks. Now they are brought before the court often within one day, maximum 3 days and my staff have become very good at turning these cases around quickly.
- I think magistrates have become more open to human rights over the year. I can see this in the discussions we had this time. Last year many magistrates were very opposed to sole occupancy orders, whereas this year everyone agreed they were important, even if they went against community ideas of ownership of property and entitlement.
- More knowledgeable on how to deal effectively with human rights issues in court
- Now that I ask defendants about their treatment and more now open up in the court room and tell me about the abuses they have been subjected to by the police.
- Changes in my attitudes to handling cases involving human rights and the sense that I can really improve people's lives
- I'm now alert to and able to act on human rights issues that come before me
- I now give greater weight and consideration to victims' concerns in gender based violence cases.
- There is increased public awareness that a female victim is protected by the law against domestic violence, not only men are protected by the law.
- Providing public with human rights complaints forms and rules so they know they can ask the court to enforce their human rights and it is very easy for them to do without a need for lawyers.
- Just being aware of the degree to which we can directly apply the human rights standards depends on the treaties PNG has ratified and if they are enacted in national laws.



### JUDGES’ REFLECTIONS ON CHANGES TRIGGERED BY FIRST HUMAN RIGHTS WORKSHOP NOVEMBER 2017

- The first human rights workshop was very well received and created the opportunity for continuing work in the area of human rights, and in particular, the conduct of a second workshop series.
- The Centre for Judicial Excellence has now included human rights in the curriculum for judges at an institutional level. This was catalysed by the human rights workshop.
- After the workshop, the Chief Justice decided to appoint a second judge to hear cases submitted under the Human Rights complaints track.
- Court in Madang has worked to reduce delay in hearing cases which has improved the rights of all parties.
- I engaged more with the court staff and encouraged them to be more aware of human rights and motivated to help disadvantaged court users.
- Increased awareness of the international instruments and their relevance to implementation of the constitutional provisions
- I have undertaken several initiatives including the head of courts providing awareness sessions to remandees and providing them with the human rights track complaint forms. These were very well received and remandees were grateful for the information.

### Suggested Human Rights Related Indicators

Below are some of the suggested indicators that were developed for the Courts following the last human rights workshop. These could be a useful starting point for selecting the ‘top ten’ that can be the key focus of the Courts over the coming year. While these have been developed for the National Court they could be readily adjusted for use in the District Courts also. Taken in their totality, these indicators could provide a strong framework or basis for evolving this approach into a Human Rights Action Plan for the Courts, initially within the Human Rights Track, but later ‘rolled out’ across civil/family and criminal jurisdictions also.

SUGGESTED NATIONAL/DISTRICT COURT HUMAN RIGHTS TRACK INDICATORS	
Suggested Indicator	Rationale/Definition/Further Detail
% new judges/magistrates/court staff to receive human rights training as a standardised part of their induction	Last year it was recommended that some basic human rights/access to justice sensitisation training be included in standardised induction processes for all new court staff, judges and magistrates. Furthermore, a human rights component should be developed in the curriculums provided both in PNG and across the Pacific by the Centre of Judicial Excellence and tailored to the needs of the different categories of actors who receive training through the Centre.
# of judgements (National Court) that mention, discuss or apply one of the 5 core human rights treaties ratified by PNG or the Universal Declaration of Human Rights Target:	Relevant treaties are: <ul style="list-style-type: none"> <li>• International Covenant on Civil and Political Rights</li> <li>• International Covenant on Economic Social or Cultural Rights,</li> <li>• Convention on Elimination of all Form of Discrimination Against Women,</li> <li>• Convention on the Rights of the Child and</li> <li>• Convention on the Rights of People with Disabilities</li> </ul>



2018: 2019: 2020:	
# of s 57 Human Rights Track applications heard by each National Court judge	This indicator would enable the Chair of the Human Rights DDE Committee to monitor the spread of judges involved in hearing human rights track cases, and enable him/her to undertake targeted encouragement of those yet to use this aspect of their jurisdiction.
# of s 57 court initiated inquiries by National Court Judges under s 57  # District Court Magistrates to initiate human rights application under Article 9 of the Human Rights Rules)	To make visible the number of times the Court uses its 'of own initiative' power under s 57(1) of the Constitution
# of referrals made by individual Judges to the Public Solicitor in relation to a potential s 57 application	This indicator would enable the Chair of the Human Rights DDE Committee to monitor the spread of judges involved in referring potential human rights track cases to the Public Solicitor, and enable him/her to undertake targeted encouragement of those yet to use this aspect of their jurisdiction.
# Visiting Justice visits carried out by each Judge under powers in s 23 District Courts Act Target: 2018:60% judges perform at least 1 visit per month 2019:75% judges perform at least 1 visit per month	This indicator would enable the Chair of the Human Rights DDE to monitor the extent to which judges are exercising their inspection role in places of custody and enable him/her to undertake targeted encouragement of those yet to use this aspect of their jurisdiction



<p>2020:100% judges perform at least 1 visit per month</p>	
<p># of Administering Judges to undertake at minimum a weekly check of Court Facilities in accordance with Court Facilities                  2018:60% administering judges perform at least 1 check per week                  2019:75% administering judges perform at least 1 check per week                  2020:100% administering judges perform at least 1 check per week</p>	<p>This indicator would enable the Chair of the Human Rights DDE to monitor the extent to which Administering Judges are following the Chief Justice’s instruction to regularly inspect the court facilities they are responsible for, using a checklist, tasking and following up with court staff to ensure facilities are ‘fit for purpose’ including human rights aspects.</p> <p>Categories for checklist</p> <ul style="list-style-type: none"> <li>• Holding cells are clean, weatherproof, have adequate ventilation and have drinking water fountain. Staff assigned to provide food and guard bathroom visits if necessary</li> <li>• Adequate security measures in place, especially when sensitive cases are being conducted (including family violence)</li> <li>• Court information desk in place and continuously staffed during opening hours (roster through lunch breaks etc.)</li> <li>• Signage in place for Registry, Court Rooms, Bathrooms, Waiting Areas, Kiosk</li> <li>• Posters up setting out court fee waiver criteria and process</li> <li>• Posters up setting out services available for people with disabilities</li> <li>• Posters up setting out where people can get help with completing application forms</li> <li>• Tickets for ticketed queuing system in place</li> <li>• Drinking water available in public waiting area</li> <li>• Public complaints and feedback box, and forms/pens present and maintained in each court, and signage explaining what will be done with ‘actionable’ feedback</li> <li>• Kiosk and basic food available in public waiting area</li> <li>• Functioning wall clock in public waiting area</li> <li>• Court user bathrooms exist (preferably separated male and female and if possible with disability access)</li> <li>• Court user bathrooms are clean and usable</li> <li>• Court entrance, rooms, waiting areas are clean, have rubbish bins that are regularly emptied</li> <li>• Separate entrance and waiting area for GBV victims</li> <li>• Separate waiting area for children, including juveniles in detention</li> <li>• Private space for court users to consult with their lawyers</li> <li>• Car parking space managed to ensure disability access/priority</li> </ul>



<p><b>Case Docketing/information management data base fields amended to include:</b></p> <ul style="list-style-type: none"> <li>• Type of case (see next column for details)</li> <li>• Gender of all parties</li> <li>• Age of all parties and non-party affected persons (0-9 years, 10-14 years, 15-17 years, 18-59 years, 60+ years)</li> <li>• Disability of all parties and affected persons (sight, hearing, mobility, intellectual, mental illness)</li> <li>• Type of case</li> <li>• Legal representation (self/public solicitor/other legal aid/private)</li> <li>• Filing fee waiver sought/granted</li> <li>• Place of application</li> <li>• Whether heard by circuit court</li> <li>• Time from application to final determination;</li> <li>• Number of adjournments/reason</li> <li>• Outcome of case (sentence/court order)</li> </ul>	<p>This additions are crucial to enable analysis of which groups are accessing the courts, what kinds of cases they are bringing, and what kind of how well courts are providing access to justice, adjusting services to meet needs of particularly vulnerable groups.</p> <p><b>Type of Case Possible Breakdown:</b></p> <p><b>Criminal Law:</b> property-related/crimes against the person (broken down further into physical/sexual/other crimes)  <b>Family Law:</b> Divorce/separation, child custody, maintenance (spousal/child/both), adoption, property settlement. Note Y/N if violence was a factor in each case type; and  <b>Civil Law:</b> Discrimination/inheritance/land/other.  Time from application to final determination;</p>
<p>No of Courts with 'colour coding' of files or other methods to readily distinguish cases involving</p>	<p>Implementing this measure will provide a simple way of ensuring that Court staff and magistrates/judges are immediately alerted to the fact that a case involves a category of person who may need special arrangements to be in place or consideration.</p>



<p>parties or other affected person who are:</p> <ul style="list-style-type: none"> <li>• Children</li> <li>• Victims of gender-based violence</li> <li>• People with disabilities</li> <li>• Coming from remote locations</li> </ul>	
<p># of Courts with procedures in place for ensuring special measures are consistently taken to accommodate needs of: <b>Poor people (impecunious court users)</b></p>	<p><b>Further sub-indicators for case involving impecunious court users:</b></p> <ul style="list-style-type: none"> <li># applications for fee waiver</li> <li># grants of fee waiver</li> <li># courts with signage about criteria for waiving court fees</li> <li># courts with staff trained to always ask if person wants to apply for fee waiver and provided assistance</li> </ul>
<p># of Courts with procedures in place for ensuring special measures are consistently taken to accommodate needs of: <b>Victims of gender-based violence</b></p>	<p><b>Further sub-indicators for cases involving victims of gender based violence:</b></p> <ul style="list-style-type: none"> <li># Courts with staff trained and assigned to assist victims of gender-based violence coming to court.</li> <li># courts with a place where victims can speak privately about filing their case</li> <li># cases where court staff assist victims to complete protection order applications</li> <li># of cases where 3 arrangements are made for victims:                         <ol style="list-style-type: none"> <li>1. to enter the court via a different entrance,</li> <li>2. Sit in non-public waiting area,</li> <li>3. ensure screen is ready in court so victim need not have eye contact with suspect</li> </ol> </li> </ul>
<p># of Courts with procedures in place for ensuring special measures are consistently taken to accommodate needs of: <b>Children</b></p>	<p><b>Further sub-indicators for cases involving children:</b></p> <ul style="list-style-type: none"> <li># Courts with staff trained and assigned to assist children coming to court.</li> <li># courts with separated waiting area for children away from adults,</li> <li># courts where juvenile suspects are held in a room not in holding cell with adults,</li> <li># cases where court room arranged for child</li> <li># cases where parents are present</li> <li># cases where lawyer is present</li> </ul>
<p># of Courts with procedures in place for ensuring special</p>	<p><b>Further sub-indicators for cases involving People with Disabilities:</b></p>



<p>measures are consistently taken to accommodate needs of: <b>People with disabilities</b></p>	<p># Courts with staff trained and assigned to assist persons with disabilities including arrange interpreter or access assistance as needed,                  # Cases where court provided assistance to person with disability                  # Courts with clear signage explaining services available for people with disabilities                  # cases where courts have ordered medical assessment or service provided in specified time frame to assess or support party with a disability or mental illness</p>
<p># of Courts with procedures in place for ensuring special measures are consistently taken to accommodate needs of: <b>People coming from remote locations</b></p>	<p><b>Further sub-indicators for cases involving people coming from remote areas:</b>                  # Courts that schedule cases later in day and ensure they are completed within the day, for those coming from remote locations</p>
<p># of Courts with ticketed queuing systems in place including fast tracked service for people with disabilities, elderly, people with accompanying children</p>	<p>This is so that all court users experience equality and fairness when they come to the court registry                  # Courts where staff have received customer service training including training on not allowing people who think they have priority to ‘push in’</p>

**Part 1: Reflections on impact of last human rights workshop**

In this final section of the Magistrates’ workshop, participants were invited to reflect on the impact of the last human rights workshop run almost exactly a year earlier. (See Annex D for full document and individual response forms can be provided on request). While few of the recommendations made at the leadership level had been implemented, it was extraordinary to hear from the Magistrates how they had, as individual magistrates, gone on to use the knowledge that they gained from the first human rights workshop. This exercise demonstrated that even in the absence of an institutional-level change process, participation in the first human rights workshop did still catalyse a process of significant change for many Magistrates, which cumulatively is likely having a significant impact on the wider practice of the District Courts.

Participants were asked to reflect on what **changes they had made to their job (cases, systems, staff, engagements with family/friends/community)** since the first human rights workshop in November 2017. Participants provided a range of responses including:

- I conducted a human rights awareness program in local schools.



- I now always explain to juveniles before the court the constitutional rights they have and how they can complain and enforce these rights.
- I'm not silent any more on human rights abuses by police. I'm firm with the police.
- I conducted Court User Forums and provided awareness about the importance of human rights issues.
- After the workshop I ordered the release of all the people who had been detained without charge for one or two months.
- I now make sure my staff give equal time and respect to women and children court users.
- I have used the human rights treaties in making decisions and referred to them in my judgements.
- I have worked with registry to engage the court staff in human rights issues.
- I am now able to identify human rights issues when they came before my court.
- It helped me to change the way I was handling cases and also informed changes I made in dealing with the staff and systems in the court.
- I have encouraged staff to be more human rights conscious when they engage with the public.
- I have myself become a better husband and father after going to that workshop.
- I have referred police brutality issues to the human rights track of the National Court.
- When victims come to withdraw their case, rather than just accepting that now I take the time to explain to the victim the process, laws and avenues of support from the court.
- I am now more mindful of human rights issues in my court.
- Now I know there is no excuse for violence and I have not been excusing anyone in my court.
- I have become more aware of the human rights of my wife and children.
- I have conducted awareness raising activities in my Church community. Many of them misunderstand human rights so after this workshop I felt I could explain it in a way that was correct and well understood.
- The workshop changed the way I handle cases. I included constitutional human rights provisions in a coronial inquest and several criminal cases. I took action by writing to Justice Canning and the chief prosecutor to bring on criminal matters within a maximum of three days when they are detained.
- I have increased the participation of stakeholders in the court by setting up committees and running awareness campaigns.
- I keep copies of the human rights rules and forms in my court and give them out and explain to people how to use them to make a complaint.
- I take account of international human rights in my decisions.
- I engaged with my staff and my family and friends about human rights.
- Now I list all my cases prior to hearing to give greater notice and access to justice.
- I now require my clerks to be accountable for their time and at their duty stations ready to help people.
- I am now more alert to human rights abuses that come up in my cases.



- I am now more victim-focused in gender based violence cases.
- I am now more aware of village court bias against women and more proactive so they do not need to rely on village court or overruling village court and making sure village court knows this has occurred.
- Now I am aware that clerks often are slow in transmitting interim protection order applications to me. So I need to train them and hold them accountable to public service.
- I now regularly go and speak to detainees about their human rights and I summons to court the actors responsible for detainees conditions including food, basic needs, and address cases where detainees say they have been assaulted by guards or police.

Participants were also asked to comment on **changes they had observed in others** since the first human rights workshop and noted the following points:

- I have noticed that police officers now treat detainees better, now they know I am following up and checking with detainees about their treatment.
- Clerks who attended the last workshops were changed and different.
- Magistrates are now much more aware of human rights issues.
- Police now grant police bail more often after I overruled detention several times.
- There is more informed discussion about human rights within my court and staff making their own suggestions for improvements we can make.
- Complainants are relieved that criminal cases are now dealt with more quickly. Police are more encouraged to arrest as their cases are being heard more quickly and less complaints from defendants as they spend less time in custody.
- Not a lot of changes by me. I didn't really follow through but will now after this second workshop which has reminded me about the importance of following through with human rights.
- Madang District Court now has a family friendly court.
- District courts are now utilizing Court User Forums (CUFs).

Participants were also asked to reflect on what aspects helped them to make the changes and what aspects hindered them. **Factors that helped them to make change** following the first human rights workshop included:

- The workshop assisted me to be bold and empowered about human rights issues and to use my position as a magistrate and the powers that I have.
- Knowledge of the treaties and discussion with others.
- Availability of human rights rules and complaints forms in the courts.
- Seeing two of my judgments published on Paclii was an inspiration.
- Greater awareness of the link between sentencing and human rights.



- My role as a magistrate in the community.
- A better understanding of constitutional requirements and human rights.
- Consultations with the Provincial Law and Order Committee in Madang and discussions with Justice Cannings about human rights issues in Madang. The human rights workshop was the catalyst for all this.
- Acceptance that human rights is everyone's business from the judges to the staff.
- When I rejected the idea that assault by police was just a routine part of being arrested and had the feeling I could really do something about that with my powers.
- The workshop resources supplied and the National Court human rights rules.
- Clerks of the court were not willing to accept changes.
- Awareness and knowledge of human rights and gender based violence.
- The human rights toolkit has been very useful. I have referred to it often.
- Awareness of the constitutional provisions and the powers that Magistrates have to enforce human rights, not only in the National Court
- Taking ownership and becoming an agent of change and taking issues up at the family and personal level and the community level as well as in the court.
- Better understanding of the human rights rules and the workshop materials to refresh my memories later on.

Factors that **hindered Magistrates achieve change following the first human rights workshop** identified were:

- Heavy workload.
- Lack of time and lack of physical and mental energy to take on change progress.
- Court staff being biased whether consciously or unconsciously or really not caring at all.
- Biggest problem is lack of cooperation by the police in serving and executing warrants and summons.
- Workload and covering for other magistrates. Court staff are slow to learn and change and there is no time to provide them with greater awareness.
- Low community literacy and the lack of a Family Support Unit in the Province.
- Other stakeholders' misconceptions or lack of interest in addressing human rights concerns.
- The clerk of court not willing to accept I was the new senior magistrate and that she needed to work with me.
- Lack of coordination in the Province.
- Some of the circuit judges have different attitudes to human rights which do not help.
- Court staff not aware of the human rights referral forms for the registrar.



Participants were also asked to share **the most significant change** they had observed since the first human rights workshop. Responses included:

- Knowledge of human rights and gender and family violence has made a very important contribution to my judgments.
- Developing court forms and simplifying court processes for women and court users especially regarding service requirements, DNA testing, counselling process, referral to LP Office Child Welfare.
- For me it has been about the awareness I have created in others, court staff, court users and the public about human rights, and the way that I now treat the victims of gender violence in my cases and the way I provide my judgments.
- In the past, suspects were detained without charge for more than 3 weeks. Now they are brought before the court often within one day, maximum 3 days and my staff have become very good at turning these cases around quickly.
- I think magistrates have become more open to human rights over the year. I can see this in the discussions we had this time. Last year many magistrates were very opposed to sole occupancy orders, whereas this year everyone agreed they were important, even if they went against community ideas of ownership of property and entitlement.
- More knowledgeable on how to deal effectively with human rights issues in court.
- Now that I ask defendants about their treatment and more now open up in the courtroom and tell me about the abuses they have been subjected to by the police.
- Changes in my attitudes to handling cases involving human rights and the sense that I can really improve people's lives.
- I'm now alert to and able to act on human rights issues that come before me.
- I now give greater weight and consideration to victims' concerns in gender-based violence cases.
- There is increased public awareness that a female victim is protected by the law against domestic violence, not only men are protected by the law.
- Providing public with human rights complaints forms and rules so they know they can ask the court to enforce their human rights and it is very easy for them to do without a need for lawyers.
- Just being aware of the degree to which we can directly apply the human rights standards depends on the treaties PNG has ratified and if they are enacted in national laws.

Significant changes identified in the responses from judges included the following:

- The first human rights workshop was very well received and created the opportunity for continuing work in the area of human rights, and in particular, the conduct of a second workshop series.



- The Centre for Judicial Excellence has now included human rights in the curriculum for judges at an institutional level. This was catalysed by the human rights workshop.
- After the workshop, the Chief Justice decided to appoint a second judge to hear cases submitted under the Human Rights complaints track.
- Court in Madang has worked to reduce delay in hearing cases which has improved the rights of all parties.
- I engaged more with the court staff and encouraged them to be more aware of human rights and motivated to help disadvantaged court users.
- Increased awareness of the international instruments and their relevance to implementation of the constitutional provisions.
- I have undertaken several initiatives including the head of courts providing awareness sessions to remandees and providing them with the human rights track complaint forms. These were very well received and remandees were grateful for the information.

Challenges for implementation of human rights initiatives for judges included a lack of time, lack of resources, judicial initiative not encouraged by the court leadership although this may now change in light of recent changes in the Court.



# PACIFIC JUDICIAL STRENGTHENING INITIATIVE

## OUTPUT COMPLETION REPORT

### HUMAN RIGHTS OUTPUT

*17 August 2016 to 31 March 2019*

**Report by: Dr Carolyn Graydon**



**FEDERAL COURT  
OF AUSTRALIA**



*PJSI is funded by the New Zealand Government and  
implemented by the Federal Court of Australia*



**Note:** Acknowledging that PJSI will deliver numerous activities, and needs timely and focused analysis to inform reports to MFAT, reporting on PJSI activities focuses on providing summary qualitative and quantitative data. Each report should in general be no more than three pages. Reports are generally to comprise the following:

## 1. Introduction

The Human Rights Output (Output 8 in the Approved Activity Design) was one of two new outputs within the PJSI 'Substantive Justice' pillar of the program. This was a new pillar added to the PJSI aimed at *'Improving the substantive fairness - that is, the qualitative or 'thick' dimensions -of justice service delivery; specifically in relation to human rights law generally, and gender and family violence'* and sought to achieve the short term outcome; *'Partner courts exhibit more responsive and just behaviour and treatment that is fair and reasonable.'*

The Human Rights Output was specifically expressed in the Activity Design as:

*2.1.3.1 PIC courts committed, trained & equipped with tools to deliver justice aligning with human rights.*

The description of the Output in the program design focused on delivery of justice aligned with human rights norms across the region, and aimed, more specifically, to integrate international human rights law with local, customary values and practices in order for the courts to formulate local codes of human rights possibly in the form of a contextualised 'Know Your Rights' Toolkit - for the use by court officers and members of the community in the courts to deliver improved substantive justice outcomes.

It was agreed that the objectives of the Output should be broadened to take into account the need for delivery of foundational level knowledge regarding human rights standards and exploration of how these translate into actions and behaviours of different court actors according to their role. Four main objectives were developed and approved:

1. Strengthen court capacity to adopt a systematic and measurable approach to applying human rights standards in court decisions, procedures and administration.
2. Increase capacity of judiciary (lay and law trained) and court staff to apply human rights standards in court decisions, procedures and administration
3. Contribute a court perspective to wider social processes aimed at strengthening local human rights norms and harmonization with local customary values and practices
4. Support implementation of the Gender and Family Violence, Access to Justice and Court Accountability as needed

## 2. Summary of Methodology applied

- Extensive literature and Pacific case law review
- Participation in initial CJ Leadership Forum which provided an opportunity to receive feedback on initial ideas and to have bilateral dialogues with relevant CJs to better understand the human rights needs identified by court leaderships and to gauge from court leaders the level of human rights knowledge and skills of judicial and non-judicial officers in their courts.
- Having established that the relevant courts had very limited existing knowledge of human rights or how they are relevant to courts, it was necessary to design a foundational human rights program for this first phase of the substantive justice human rights component comprised of the following elements:



- Development of a Pacific-specific easy to use reference guide on applying human rights in courts to enhance understanding of the relevance of human rights to the work of courts, familiarisation with key human rights concepts and conventions, navigating application of human rights standards in practice.
- Resource to include step-by-step methods for ‘difficult areas’ including: 1. Applying human rights law from treaties, constitutional provisions and national laws in judgments; 2. Reconciling clashes between customary law/practice and international/national human rights standards; 3. Developing Human Rights Court Action Plan
- Resource provided in soft and hard copy for maximum distribution and access across PICs.
- In-person interactive training program tailored to different national legal frameworks, roles and knowledge levels focused on practical application of knowledge and skills acquired to individual court roles.
- Close engagement with CJ’s and senior court administrators in developing the program before each visit to ensure local ownership and relevance of planned human rights activities.
- Close engagement with CJs and senior administrators while in-country to keep them well informed of main issues arising from the workshops, combined with offers to undertake specific activities/assessments/pre recommendations identified by them to support their priorities and efforts to strengthen areas of human rights practice.
- Maximising ‘reality checking’ in each country by conducting bilateral meetings with institutional and non-institutional external justice actors so that their feedback could be incorporated into the court workshop programs.
- Sharing of experiences and resources between different Pacific Island Countries to address common issues
- Using in-country visits as an opportunity to consolidate the work undertaken under other PJSI components (especially work of the Gender and Family Violence Adviser, Access to Justice Adviser and the Accountability Adviser).

This methodology was aimed at ‘sparking’ human rights initiatives and changes through the widest possible base of people working within the courts. As the output was delivered, the methodology adapted to provide:

- Greater opportunity for applying knowledge to case studies and sharing of experiences during the workshops
- Greater focus on each participant planning for how they would transition their knowledge back to their particular role and to anticipate the resources they would need, and the challenges they would likely face.
- Greater effort to capture and document the changes that participants did then go on to make in how they performed their role.

As a consequence of these adaptations, we now have a lot more insight into how participants have been acting upon their increased human rights knowledge and skills. This will provide a strong foundation for taking a more structured approach to change at an institutional level in the next two years of the PJSI.

### **Methods that particularly helped achieve aims/outcomes**



- The opportunity to visit PNG twice. This provided the opportunity to consolidate and progress the work done from the previous visit and to directly identify changes made in human rights practice since the earlier visit.
- Inter-active workshops that find the right balance for participants to acquire knowledge, apply it in practical exercises, share their experiences and approaches and to individually commit and plan for how they will transfer application of this knowledge back to the day-day work environment by identifying particular actions or goals, any resources they will need, predicted difficulties and mitigation plans.
- Maximum engagement with non-court actors, both institutional and community based while in-country in order to better understand human rights challenges from a court users' perspective, so this could then be fed in to the training provided to court actors.
- Targeted advocacy meetings while in-country with key human rights duty bearers (heads of institutions) to discuss particular laws/human rights issues and options for change.
- Adaptations to methodology listed above (investment in supporting individuals to transition knowledge into their roles, capturing the changes they then went on to make). The next step would be to return to these individual action plans and assess the degree to which participants were able to change how they performed their roles, and then how to encourage further guided actions with the active support of the court leadership.

#### **Recommendations regarding methodology:**

1. To allow for more than one visit per country. Building relationships with relevant court actors is necessary to secure their engagement and commitment to leading change. In-country visits are very precious for this reason. Once built, these relationships could then be maintained through a combination of in-person and remote activities.
2. Return to the individual human rights action plans that workshop participants developed. Keep capturing the main changes made and the barriers to change, so these can be addressed through appropriate measures (more training, prioritisation by court leadership etc).
3. Return to the idea of establishing a human rights 'community of practice' involving actors by role. Could be established at two levels, one per country and the other with more of a regional focus. Purpose of the communities of practice would be so members could present human rights-related court developments and case law from their countries, to talk to through common human rights challenges and to brainstorm practical approaches for addressing these, identify common projects to work on such as getting judgments published on PacLII, progress on creating welcome courts, human rights indicator reporting, materials for court outreach on human rights issues etc.
4. Pilot a human rights workshop/seminar series using webinar technology. Could be a combination of seminar style and coaching style where common group of participants progressively step through applying human rights knowledge and skills in their particular roles over a three or six month period.
5. Offer remote human rights 'hotline' or advisory service to court actors in participating countries for human rights trouble shooting. This has been identified as a need based on how I find myself inundated with specific requests for advice and assistance from workshop participants when I am in-country. Human rights adviser could receive emailed requests for advice and provide either written or telephone advice within an agreed upon timeframe.

### **3. Summary of Activities Delivered**

#### **Chief Justices Leadership Forums**



- 7-9 September 2016, Port Moresby, PNG Presented outline of human rights component to Chief Justices
- 3-5 April 2017, Apia, Samoa, Presented Human Rights Toolkit to Chief Justices

### Regional Workshop

- 12-16 February 2018, Port Villa, Vanuatu, Contributed to program development, materials and co-delivered 4 days of substantive justice training with Gender & Family Violence, & Access to Justice Advisers.

### Human Rights Visits

#### 1. *Solomon Islands Human Rights Visit: 24 April-5 May 2017. Piloting of Human Rights Toolkit*

- Human rights workshop for Court Executive (7 key judicial and non-judicial actors) regarding integrating human rights into strategic court planning, budgeting and data capture.
- Three-day workshop “Human Rights in the Practice of the Solomon Islands’ District Courts’ attended by 13 Local Court Judges and 5 court staff.
- One day workshop for 4 court staff titled ‘Human Rights in the Practice of Solomon Islands Courts: Court Staff Workshop’
- 2 focus group discussions with court user groups, for institutional and non-institutional court users.
- 14 bilateral external meetings and site visits with key institutional actors and NGOs working on human rights and gender based violence issues.
- In-person briefings to New Zealand Deputy High Commissioner and DFAT justice advisors
- Visit, assessment and report on juvenile detention facility compliance with human rights standards provided to Chief Justice, as requested

#### 2. *Papua New Guinea Human Rights Visit: 20 November-1 December 2017*

- 2 day workshop for 40 District Court Magistrates
- 3 day workshop for 42 National Court Judges
- 9 bilateral external meetings and site visits
- Workshop with 14 village court judges
- Development of disaggregated data categories for capturing human rights performance

#### 3. *Kiribati Human Rights Visit: 4-16 June 2018*

- Two day workshop for 33 court staff to increase understanding of the relevance of human rights to their roles
- Three day workshop for 10 Single Magistrates and eight court staff to increase understanding of the relevance of human rights to their roles,
- In-depth discussions with the Chief Registrar and Chief Justice to identify capacity development needs and court planning to strengthen application of human rights in Kiribati courts.
- One day visit to North Tarawa to visit the Magistrates’ Court and conduct facilitated discussion with five magistrates

#### 4. *Papua New Guinea Second Human Rights Visit: 26-30 November 2018*

- Three day workshop for 35 District Court Magistrates
- Two day workshop for 36 National Court Judges



## 5. Tonga Human Rights Visit: 3-15 February 2019

- Three day workshop for 7 Magistrates
- Two day workshop for 7 court staff, 6 Ministry of Justice staff and two lawyers
- Six external meetings including with Minister of Justice, CEO of Justice Ministry, Family Protection Centre for Legal Aid and President of Law Society.
- In-person briefing for High Commissioner and Deputy High Commissioner for New Zealand

### Number and type of court actors to receive human rights training

Court Actor	#
Court executives	26
Judges	79
Magistrates	85
Local/Lay Magistrates	32
Court Staff	57
Others (lawyers, Ministry staff)	8
<b>Total</b>	<b>287</b>

Total number of human rights workshops provided during human rights visits: 15

Country	% Satisfaction with activity	% Increase knowledge change	% increase self-assessed confidence/understanding
Kiribati	91	71	45.5
Tonga	94	89	44
PNG 1	94	38	33
PNG 2	79	47.5	21
Solomon Islands	89	87	54
<b>Average</b>	<b>89</b> (Results table target: 80)	<b>66.5</b>	<b>40</b>

## 6. Summary of Project Outcomes

### Key Outputs Produced

- Human Rights Toolkit: Development, drafting, finalisation, piloting, distribution and application of Human Rights Toolkit
- Development of step-by-step methodology for judges/magistrates to resolve conflicts between human rights standards and customary law/practices
- Development of step-by-step methodology for judges/magistrates to apply international, constitutional and national human rights standards in cases
- Development of 'Welcoming Courts' criteria applying human rights-based approach to better meet needs of court users who are victims of gender-based violence, children, people with disabilities, or otherwise disadvantaged by remote location, poverty etc.



- Development of standards of treatment by courts of victims of gender-based violence, children, people with disabilities, or otherwise disadvantaged by remote location, poverty etc.
- Development of training materials for total of 15 workshops, customised to the national laws and common scenarios of 5 countries and adapted for targeted actor groups including: court executives, judges, magistrates, village/local court magistrates, court staff and lawyers.
- Human Rights Action Plans developed in collaboration with courts in two countries
- Five detailed Activity Reports including detailed sector mapping, analysis, assessment and recommendations to strengthen application of human rights
- Linkages created with external institutional actors (legal aid service, prosecution, specialised policing units, Ministry of Justice, social services, law societies), service providers related to supporting victims of gender-based violence, children and people with disabilities.

## Key outcomes

### *Court leaderships*

- Court leaderships now better understand the scope of courts' responsibilities as human rights 'duty bearers' and their role in leading their court to uphold human rights standards in all aspects of its work. They are also now aware of their court's specific areas of weakness and are equipped to address these including through prioritising human rights strengthening in court planning processes.
- They also now have greater awareness of the importance of, and how to, actively engage with other institutional justice actors and service providers to coordinate efforts to support human rights across the justice chain, without compromising judicial independence.

### *Judges, magistrates, local magistrates, and court staff:*

- Now understand that all people working in the court system are human rights 'duty bearers' and have specific responsibilities to uphold standards of human rights.
- Have acquired knowledge of what those standards are by becoming familiar with key human rights standards provided for under core human rights treaties, their national constitutions and national laws.
- Now understand how international human rights standards interact with national laws and how these apply to courts across their 4 core areas of responsibility to deliver substantive justice, procedural justice, access to justice and accountability of justice.
- Now understand how these standards translate into performance of their daily roles and are equipped to apply them according to their specific role
- Judges and magistrates became more aware of the scope of their legal powers to protect human rights and were empowered and emboldened to use them.
- Now understand that human rights concepts are often embedded within customary laws and practice and can be interpreted and understood as mutually supporting each other.
- Where clashes arise, judicial officers now have a methodology to follow to help them to lawfully resolve such conflicts and are equipped to apply it.
- Court staff now understand their critical roles in facilitating access to justice for disadvantaged social groups and are equipped to take practical steps towards fulfilling these roles.
- Have each analysed how human rights apply in their own roles, identified specific actions they can take and committed themselves to doing so.



- Now have greater self-awareness of how unconscious bias can influence their judgment and behaviour as judicial officers and court staff, and are equipped to resist/challenge themselves in relation to this, to become fairer and more impartial in how they perform their duties

### Expected and unexpected outcomes

- Individuals who participated in the human rights trainings were very engaged in the programs and from the evaluations made, were able to transfer at least some of their new knowledge back into their work environments and to then go on to achieve change.
- All Chief Justices were very engaged and receptive to the work of the human rights component. In some countries change at an institutional level could be ascertained through, for example, commitment of additional resources to human rights related activities, or follow up advocacy or actions to hold other duty bearers accountable or to widen services available for disadvantaged court users.

### Tangible/visible performance change judges, magistrates and court staff

The human rights workshops have acted as a catalyst for many actions and changed behaviours. Those documented include:

#### *Court leaders*

- Court leaders more actively directly addressing human rights issues presenting in their courts. Documented examples include: taking up complaints of abuse in prisons; ordering for appointment of counsel to unrepresented persons facing lengthy sentences (Tonga); seeking review of treatment of detained juveniles; ordering release of juveniles from detention (Solomon Islands) and changing procedures re their transfer and detention while at court (Solomon Islands).
- Court leaders allocating more resources to human rights. Documented examples include; allocation of additional judge to hear human rights cases (PNG); proactively seeking resources for additional human rights training (PNG); adding human rights training as a compulsory part of induction of new judges and magistrates (PNG); reallocating resources to get juvenile/family court up and running (Solomon Islands) relocating use of court room space to accommodate needs of women and children (Tonga, Solomon Islands).
- Court leaders recently appointed or actively working to appoint more women to their courts. Documented examples regarding local magistrates (Solomon Islands and Kiribati) and magistrates in Tonga.
- Court leaders actively sharing their experience of using court powers to protect human rights (by actively supporting and participating in national human rights training programs and regional forums) Documented example include Justice Cannings (PNG) leading human rights sessions during the program, and preparing/delivering a paper on how judges can prevent torture at regional conference on the Convention Against Torture.
- Court leaders more actively engaged in human rights advocacy: egs include seeking funding for legal aid services for their courts (Solomon Islands and Tonga), defending position of court not to implement the death penalty (Tonga), allocating more resources for circuit courts to increase access to justice (Kiribati and Solomon Islands); establishing court user forums or agreeing to participate in working groups to improve services for victims of gender-based violence (Solomon Islands, Kiribati, Tonga, Magistrates in PNG).
- Court leaders setting and monitoring standards on timely disposal of cases (Magistrates in PNG, Solomon Islands and Kiribati).



- Courts now developing plans for assisting court users with disabilities (Tonga, Kiribati).
- Courts taking human rights into account in plans for new or renovated infrastructure including: separate entrances and waiting areas for victims, bathrooms for court users, disabled access bathroom and court rooms, improved signage and boards etc for court information, water dispenser, suggestions/complaints box, secure room for juvenile suspects rather than held in the court cell, non-intimidating court rooms with no 'cages' for suspects, adequate perimeter fencing, lighting and security. (Tonga, Solomon Islands)

#### *Judges and Magistrates:*

- Judges and magistrates now empowered to apply judicial powers to protect human rights and hold other duty bearers such as police and prisons more accountable. Examples documented include; ordering the release of unlawfully detained remandees (PNG and Tonga); changes to case management systems in court to hear detention cases within specified short periods (PNG); greater notice to parties of court listings (Solomon Islands); referring cases of alleged police mistreatment for investigation (PNG, Tonga) and taking torture/mistreatment into account to exclude confessions (Tonga, PNG)
- Magistrates piloting 'circle sentencing' of juvenile offenders (Tonga)
- Magistrates more frequently ordering release on bail and noticing police response has been to grant bail more often. (PNG, Solomon Islands)
- Human rights treaties and constitutional provisions used more frequently in making decisions and referred to in court judgments and coronial inquests (PNG, Tonga, Kiribati, Solomon Islands)
- Judicial officers now referring human rights complaints to judicial processes, institutional oversight mechanisms (eg ombudsman, police internal investigations, prisons oversight bodies etc)
- Unrepresented defendants in cases involving child victims or victims of family/sexual violence asked by judges to direct their questions for witnesses and victim to the Magistrate or judge to then convey, rather than putting them directly to the victim. (PNG, Tonga, Kiribati)
- Courts have simplified their procedures to increase access to justice: developed court forms and simplified court processes for women and court users regarding service requirements, DNA testing, counselling process, referral for welfare services (PNG); greater assistance with applying for protection orders (PNG, Tonga, Kiribati, Solomon Islands).
- Judicial officers making inspections of places of detention (PNG, Solomon Islands, Tonga); providing information sessions on rights and complaints processes for remandees (PNG); advocating for improved conditions and referring detainees to complaints mechanisms where they claim mistreatment (PNG). Judicial officers noticing changes in police behaviour due to inspections of police cells (PNG).
- Judicial officers ensure village courts are aware when their cases are overturned on appeal on human rights grounds, so they do not repeat the same mistakes (PNG).
- Increased time and attention paid by judges, magistrates to explaining and assisting disadvantaged court users, including victims of gender-based violence, juveniles and people with disabilities, their rights, (PNG, Solomon Islands, Tonga and Kiribati)) and how to make complaints and enforce their rights. (eg more time spent helping victims of gender-based violence complete applications for protection orders, information if they seek to withdraw their complaint, (Tonga) checking that unrepresented juveniles understand what their choices are and the legal implications of these etc. (Tonga, Solomon Islands, PNG Kiribati)
- Greater court outreach through formation of court stakeholder committees, court user forums, community information sessions including in schools and churches, and information about human rights and responsibilities. Tonga, Solomon Islands, PNG Kiribati



- Allocation of additional judge to hear human rights cases (PNG)
- Establishment of family/children's courts in several countries and changes to use of space in courts (ie victim waiting areas and entrances)(Solomon Islands, Tonga)

#### *Local (non-law trained) Magistrates*

- More time, care and attention paid to handling cases involving women and children (Solomon Islands, Kiribati).
- Local justices taking up their responsibilities to provide awareness on human rights in communities and now able to better explain how human rights and custom work together. (Solomon Islands).
- Using position as local justice to protect women suffering from domestic violence (Solomon Islands).
- Increased gender balance in appointments of new law magistrates with several female appointments and more applications from women to be local magistrates (Kiribati, Solomon Islands)
- Local justices continuing to talk to each other and work on human rights issues (Kiribati, Solomon Islands)

#### *Court staff*

- More time, effort and patience invested by court staff to explain and assist disadvantaged court users, including victims of gender-based violence, juveniles and people with disabilities, (eg more time spent helping victims of gender-based violence complete applications for protection orders, information if they seek to withdraw their complaint, referrals to support services.) (Tonga, Solomon Islands, PNG Kiribati)
- Managers feeling empowered to make change and their staff taking initiative to improve court environment to make it more welcoming and responsive to disadvantaged court users. (Tonga, PNG Kiribati)
- Managers reporting that the staff who attended the workshops were now performing their duties differently and showed greater acceptance of change, staff less likely to turn people away or tell them they need a lawyer (Solomon Islands, Kiribati)
- Court referral list developed and staff member allocated to keep it updated, distributed to all court staff and available to the public. (Kiribati, Tonga)
- Managers providing training to staff on assisting with protection orders, (Tonga, Solomon Islands, PNG Kiribati).
- Managers holding staff accountable for being available to the public, giving equal time and respect to women and children court users. (Tonga, Kiribati)
- Court registries engaged in human rights by prioritizing juvenile and gender-based violence cases, (Tonga, Solomon Islands, PNG Kiribati)
- Greater awareness of human rights in personal family relationships (PNG, Solomon Islands)
- Managers ensuring staff are always available to assist the public during open court hours. (Tonga, Solomon Islands, PNG Kiribati)
- Managers and staff making an extra effort to help people from remote area complete their business at the court within the day so they do not have to stay over.
- Managers allocating responsibility to staff for assisting people with disabilities and instructed to accommodate their needs, by going to their house or their car to provide assistance, making arrangements in advance to ensure plans in place to help them come to court, use facilities of the court and plan for accessible bathroom, communicate and understand while in court.(PNG, Kiribati, Tonga)
- Better respect and interaction with female staff in the court. (Solomon Islands)



### Transformational results/impacts

- Empowerment and momentum for change: judges, magistrates and court staff taking ownership of their human rights knowledge and realizing they can improve lives and become agents of change by using their powers to protect human rights. Taking up issues human rights issues in their courts, as well as the community and personal level. Proactively seeking information from people before them in court to identify human rights issues and support complaints processes.
- Greater acceptance by judges and magistrates that it is a core role of a judge or magistrate to use available laws to protect rights. This includes victims of gender-based violence, including more controversial powers eg such as granting sole occupancy to victim when property owned by perpetrator/his family.
- Gradual shift noticed by participants in some countries from strong influence of custom/traditionally orientated local justice system, to greater local understanding and acceptance of human rights.
- Understandings of how human rights relevant to courts gradually permeating into all aspects of the court's work, across all actors.

## 7. Update against Results Framework

**Update against the Results Framework detailed in your contract (see attachment)**

**Most significant change analysis: Knowledge, empowerment and momentum for different categories of court actors to use the power invested in their roles to protect human rights.**

- Judges, magistrates and court staff taking ownership of their human rights knowledge and realizing they can improve lives and become agents of change by using their powers to protect human rights. Taking up issues human rights issues in their courts, as well as the community and personal level. Proactively seeking information from people before them in court to identify human rights issues and support complaints processes.
- Greater acceptance by judges and magistrates that it is a core role of a judge or magistrate to use available laws to protect rights. This includes victims of gender-based violence, including more controversial powers eg such as granting sole occupancy to victim when property owned by perpetrator/his family.
- Gradual shift noticed by participants in some countries from strong influence of custom/traditionally orientated local justice system, to greater local understanding and acceptance of human rights.
- Understandings of how human rights relevant to courts gradually permeating into all aspects of the court's work, across all actors.

### 'Story' of how the change was brought about

**Beginning:** Very little knowledge or awareness of judges, magistrates and court staff of how human rights are relevant to the work of courts. Human rights seen as something remote, abstract and non-essential to the roles of court actors.

**Middle:** Series of foundational interactive human rights workshops tailored to court actors' particular roles, 'spelling out' obligations of court actors to protect human rights and practical application and instructing them in practical terms, on how to do so. Individual planning for how each person will do so, and then follow up to capture the changes made.



**End:** Wide array of changed behaviours to protect human rights observed by all categories of court actors. Understanding of the centrality of human rights to the work of courts and to each person working within the courts. Actions/changed behaviours sparked at an individual level and in some instances, an institutional level.

In each country visited as part of this component, even the most senior judges, including foreign judges, usually had limited understanding of human rights or how these relate to the work of courts. While some understood that international human rights standards were important in substantive justice (judging cases) and to a lesser extent, to procedural justice, none understood the broader relevance of human rights to other areas of the court's activities in relation to access to justice, including how to create welcoming courts, and accountability of justice.

The human rights workshops equipped court actors with a new lens for understanding their roles and a new 'toolbox' for effecting change. By positioning human rights at the centre of the court's most basic functions, court actors were empowered to take up their duty to uphold human rights in all aspects of their work, and equipped with the tools to do so through implementing international, constitutional and national law standards of human rights. Many judges and magistrates had limited knowledge of just how powerful they are, and how they can and should use this power to protect rights and be guided by overarching standards in international treaties, their constitutions as well as national laws.

The human rights workshops have help court actors to understand their role in a whole new way. This has already catalyzed significant changes and provides a sound foundation for now pushing for more directed change at an institutional level to help support the changes being brought about by individual court actors.

## 8. Lessons & Recommendations for the future

6. To allow for more than one visit per country. Building relationships with relevant court actors is necessary to secure their engagement and commitment to leading change. In-country visits are very precious for this reason. Once built, these relationships could then be maintained through a combination of in-person and remote activities.
7. Develop simple checklist of human rights standards for courts incorporating collection of data on human rights related Cook Island indicators plus a few additional ones. These could be divided into 'must haves' and 'nice to haves' or equivalent categories to assist with prioritisation. By working through to implement these, courts would be essentially working to a human rights action plan and we would be working towards common minimum human rights standards across all courts. Following up on these standards directly with the Chief Justices and Registrars could continue to be done remotely with offers of support and assistance.
8. Follow up on the individual human rights action plans that workshop participants developed in phase 1. Ask them to keep documenting and capturing the main changes they have made each 4 and then 12 months, as well as the barriers to change, so these can be addressed through appropriate measures (more training, prioritisation by court leadership etc).
9. Return to the earlier idea of establishing a human rights 'community of practice' involving actors by role. Could be established at two levels, one per country and the other with more of a regional focus. Purpose of the communities of practice would be so members could present human rights-related court developments and case law from their countries, to talk to through common human rights challenges and to brainstorm practical approaches for addressing these, identify common projects to



work on such as getting judgments published on PaCLII, progress on creating welcome courts, human rights indicator reporting, materials for court outreach on human rights issues etc.

10. Pilot a human rights workshop/seminar series using webinar technology. Could be a combination of seminar style and coaching style where common group of participants progressively step through applying human rights knowledge and skills in their particular roles over a three or six month period.
11. Offer remote human rights 'hotline' or advisory service to court actors in participating countries for human rights trouble shooting. This has been identified as a need based on how I find myself inundated with specific requests for advice and assistance from workshop participants when I am in-country. Human rights adviser could receive emailed requests for advice and provide either written or telephone advice within an agreed upon timeframe.

## 9. Conclusion

The human rights output has sparked a wide range of changed behaviours by court leaders, judicial and non-judicial officers through providing a broad-based program of human rights workshops to empower court actors. Based on the number and range of reported changes catalysed by or contributing to change, it can be concluded that this first phase of this new component has given relevant judiciaries a good initial 'shake up' and created momentum for change by empowering individuals to use their legal power and roles to protect human rights.

The challenge for this next phase will be to maintain this momentum while guiding the change to more of an institutional level. This could be achieved by working with court leaders towards a common platform of human rights standards, some of which are already covered in the Cook Indicators and developing more generic guidance notes and checklists to support courts as they engage more with the process. The addition of 'communities of practice' would provide a way for bringing actors together to discuss common issues, including progress against the common platform and problem solving.

It would also be good if we could help fill the gap in technical knowledge of human rights in several courts, by offering an individual technical advisory service on implementing human rights in courts.

In order for us to better measure the impact of PJSI activities, it will be necessary to plan for and implement the court user perception surveys and ideally be able to include a wider access to justice survey process at the same time.

### Annexures:

- E. Output Terms of Reference
- F. Outputs produced
- G. Update against Results Framework
- H. Most Significant Change Interview Surveys – raw data

