



Implementing Family Protection Acts

Access to Justice Webinar Series

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Welcome and Introduction

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Family Protection Acts

Protecting human rights

Women and children's basic human rights secured through family protection and family law: protection from violence, separation, divorce, custody of children, maintenance, both spousal and child.



Family Protection Acts

Protecting human rights

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Convention on the Rights of People with Disabilities (CRPD)

- **Protection from all forms of discrimination** (including gender-based violence): Art 2 CEDAW, Art 4 and 16 CRPD
- **Equality before the law**: Art 15 CEDAW, Art 5 and 12 CRPD
- **Equality in marriage, divorce, family relations, right to custody of children and to own marital property**: Art. 16 CEDAW, Art 23 CRPD
- **Right to 'reasonable accommodations'** to avoid discrimination CRPD



Family Protection Acts

Protecting human rights

Attention to **people with disabilities** crucial:

- Women and girls with disabilities are **2-3 times more likely** to be victims of physical and sexual abuse
- Children with disabilities **4 times more likely** to be victims of physical and sexual abuse
- People with disabilities have the **highest rates of dissatisfaction with state court services.**



Family Protection Acts

Protecting human rights

Convention on the Rights of the Child (CRC)

- Child's 'best interests' a primary consideration: Art 3(1)
- Right to protection all forms of violence and abuse: Art 19
- Right to be heard and have views considered: Art 12

Several Pacific Family Protection Acts refer to CEDAW and CRC: intention to **interpret Act consistently with treaties.**



Scale of the problem...

- Global average of intimate partner physical and/or sexual violence for women over their lifetime: 30%
- **Pacific rates higher, some 60+% (12 Pacific countries have data)**
- Palau has lowest rate at 25% and highest proportion of protection orders issued

Source: The Pacific Communities Pacific Data Hub
<http://pacificdata.org/> population and SDG5 dashboards.



Previous 12 months, partner violence, women and girls 15+

Country	%, in 1 year	Total women & girls 15+	Total incidents	# PO cases filed	% filed for PO
Cook Is'd	14%	6000	833	No data yet	
FSM	21%	35,600	7,514	No data yet	
Fiji	23%	320,200	74,291	No data yet	
Kiribati	25%	41,700	10,518	57 (2021)	.54%
Palau	14%	6800	942	67 (2020)	7.1%
PNG	30%	2.86 m	877,730	2058 (2018)	.23%
Mar Is'd	19%	17,300	3,343	4 (2020)	.12%
Nauru	20%	3600	743	No data yet	
Samoa	32%	59,400	19,027	No data yet	
Sol Is'd	28%	227,300	63,889	No data yet	
Tonga	21%	33,200	6825	157 (20/21)	2.3%
Vanuatu	29%	92,700	28,585	1053 (2021)	3.68%

Gender of Family Protection Applicants:

Country	Year	% female applicants	% male applicants	Both (parents)
Palau	2020	58%	28%	15%
Marshall Isl'ds	2020	'almost all'		
Tonga	2020	77%	19%	4%
Vanuatu	2021	79%	21% (up from 14% in 2019)	

Question: Any views on why more men seeking POs and outcomes they receive?

Importance of clear pathways

- Victims of family violence turn to police or courts only after suffering often years of violence.
- Data from Fiji: Average period is 868 days
- Most common turning points to seek help: fear for children or particularly serious incident
- On average, takes 12 attempts to get help needed
- 64% tried but couldn't resolve problem outside formal justice
- In Solomon Islands, 82% never seek help from anyone



Importance of access & effective response

- In Fiji 60% said police told them to resolve problem at home
- In Vanuatu, only 2/100 cases lead to police laying charges and even less make it to court esp. rural areas
- In Vanuatu 98% of women and children violence victims do not access court justice
- Across Pacific: Few use telephone application option despite inclusion in most FPAs



Importance of court communication and help

- 70% said fear of treatment by judges deters them (same as fear of retaliation)
- but 80% said their actual experience by judges positive
- 60% said fear of treatment by court staff deters them (same as fear of attitudes of family/community and treatment by police)
- but 79% said actual experience by court staff positive.
- 60% need help with written documents
- 90% successful in their applications





Discussion

Based on this data, where do you think courts should be investing their greatest efforts?

Pacific Island Countries with enacted Family Protection Acts

2008	Vanuatu	Family Protection Act
2009	Fiji	Domestic Violence Act
2011	Marshall Islands	DV & Prevention Act
2012	Palau	Family Protection Act
2013	PNG	Family Protection Act
2013	Samoa	Family Safety Act
2013	Tonga	Family Protection Act
2014	FSM, Kosrae	Family Protection Act
2014	Sol Islands	Family Protection Act
2014	Kiribati	Family Peace Act
2014	Tuvalu	Family Prot'n & DV Act
2017	Nauru	DV & Family Prot'n Act
2017	Cook Islands	Family Prot'n & Support Act
2017	FSM Pohnpei	Domestic Violence Act

Family Protection Acts

Accessibility features

- **Urgent/interim orders:** prioritised, within 1 day, ex parte
- **Flexible application formats:** 24/7, no court fee, multiple forms (e.g., telephone, email)
- **Court controls:** court initiative grants; withdrawal, only where no coercion
- **Court staff duties:** assist written application; maintain court register and reasons for refusals
- **Wide definitions** of family violence and family members



Family Protection Acts

Accessibility features continue

- **Authorised persons:** increase coverage
- **Police duties:** to intervene, assist, investigate, service of docs
- **Privacy:** closed court, non-publication
- **Offences:** Escalation pathway
- **Conditions:**
 - Standard: no violence, contact, presence, weapons
 - Tailored: sole occupancy, interim custody, maintenance



Implementation Challenges:

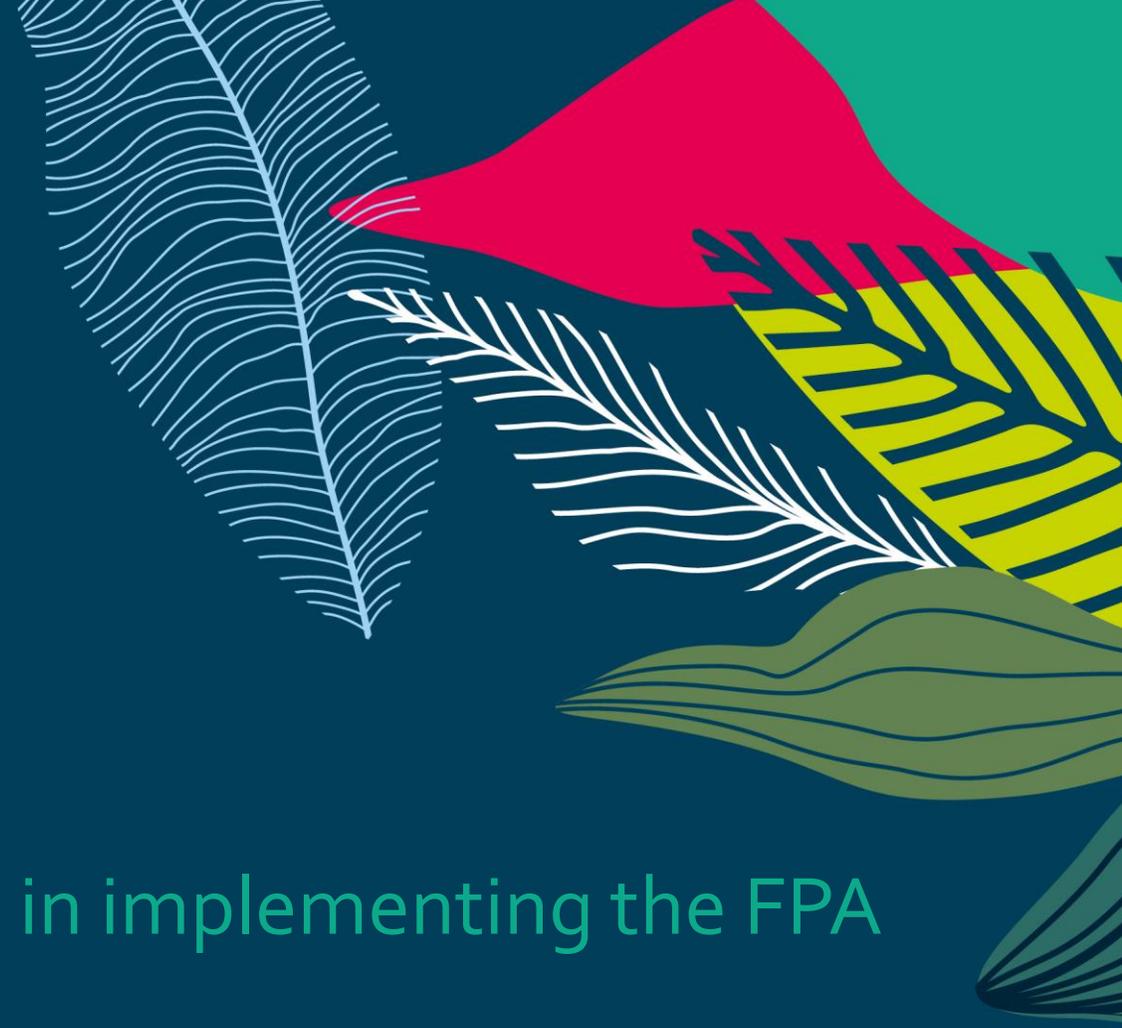
- Lack of awareness and legal assistance
- Lack of coverage: low use of remote proceedings, authorised persons and lack of oversight
- Non-inclusive services for people with disabilities
- Lack of follow through to final orders
- Lack of police accountability: response, investigation, service; responses substituted service, court accountability



Implementation Challenges:

- Only sought by applicants located close to courts
- Courts often outside service coordination networks
- Lack of court visibility: related criminal/civil cases
- Lack of court data
- Use to access family court remedies





Discussion

What challenges have been faced in implementing the FPA in your country?

Focuses of court best practices



Increased:

- Community awareness and court information
- Access to courts/authorised persons
- Access to legal assistance
- Use of remote proceedings

Focuses for court best practices

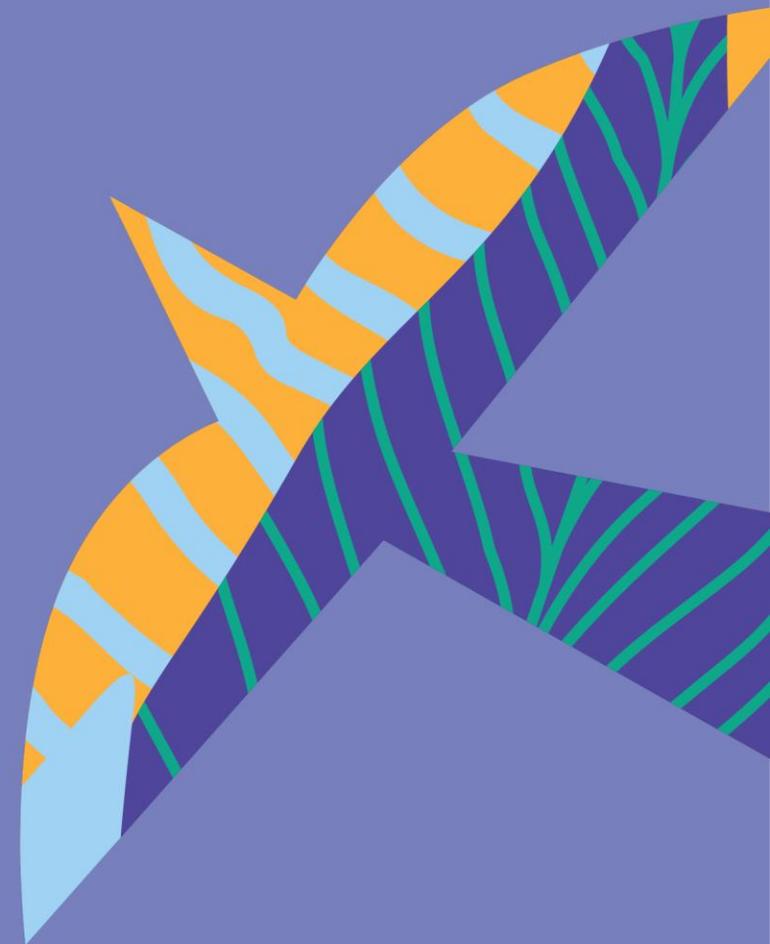


Increased:

- Court participation in family violence service coordination networks
- Data capture
- Reform of family law jurisdictions: triage, speed, fees.
- Complainant safety at court
- Inclusive court services for people with disabilities
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Some examples of best practice in Family Protection



Court Information and Services Palau



- **Court assistance:** application; safety plan risk assessment tool
- **24/7 Court Hotline**
- **Transport to court** (ad hoc as needed)
- **Application form online; No fee**
- **Written guides for parties**
 - FPA Brochure
 - FPA Handbook

Court Information and Services Palau



- **Court press release:** scale of problem, data, court response
- **MOU victim support network, March 2022**
- **Prioritisation Guidelines, April 2022**
- **FP case data in annual report**
 - 7/10 indicators already met



Discussion

Any questions about how these services work in Palau?
What further services and information could your court consider providing?

Access: legal assistance



Tonga:

- Family Protection Legal Aid Centre
- Files 46% of all Family Protection Order applications

Solomon Islands, Vanuatu, Kiribati, Fiji

- Public solicitors
- Vanuatu Women's Centre (lawyers)
- Solomon Islands Family Support Centre (lawyers)
- Fiji Legal Aid Commission

Palau, FSM, Marshall Islands:

- Micronesian Legal Services Corporation
- Legal Aid Fund (administered by Marshall Islands Court)

Discussion

How could access to legal assistance for family violence parties be expanded in your country?



Access: remote locations, Authorised Justices



Solomon Islands: Malaita and Guadalcanal

- Joint initiative: Ministries of Women and Justice.
- Built capacity of 46 Authorised Justices (AJs) in 37 communities, 40 interim protection orders issued, 216 survivors assisted
- 40 Community Facilitators (raising awareness, 7000 booklet, 2 guides)
- Recommended 'prescribed persons', importance gender & attitude to DV

Vanuatu: 2 locations Santo

- Ministry of Justice pilot; Authorised Justices
- Family protection cases 40% Mag Court cases, largest case type

Access: remote proceedings

For urgent family protection orders, remote applications and proceedings offer **fastest and most accessible option to vulnerable complainants**



Remote proceedings

Possible process:

- Complainant calls court on telephone to seek PO
- Court staff records application in writing
- Court conducts ex parte hearing by telephone
- Complainant gives verbal sworn evidence in hearing, recorded by court
- Court provides orders and summons via substituted service (sms photograph or Facebook/other social media)

Discussion



- Does your country have **authorised justices or local courts** granting protection orders in remote locations?
- Who provides **oversight and integration** of these into regular court services and court data?
- Do you see a **role for use of telephone proceedings** in your court?

Data capture: Annual Report Data

Tonga, Palau, Vanuatu, Marshall Islands and Kiribati



Cases filed, finalised and clearance rates including type of protection order (interim/ final)



Sex/ gender disaggregated data for the applicant and respondent in protection order cases



% of total cases filed in the Magistrates Court



Average duration of a protection order case – total cases and disaggregated by registry



Cases filed, finalised and clearance rates including type of protection order (interim/ final)(by registry/ island)

Data capture: 10 indicators



Number of cases in which any of the parties in a protection order case indicate they have a disability



Sex/ gender disaggregated data for the applicant and respondent in protection order cases



Number assisted preparing protection order case & who assisted: Women's Centre/ Police/ Authorised persons/ Public solicitor/ private lawyer



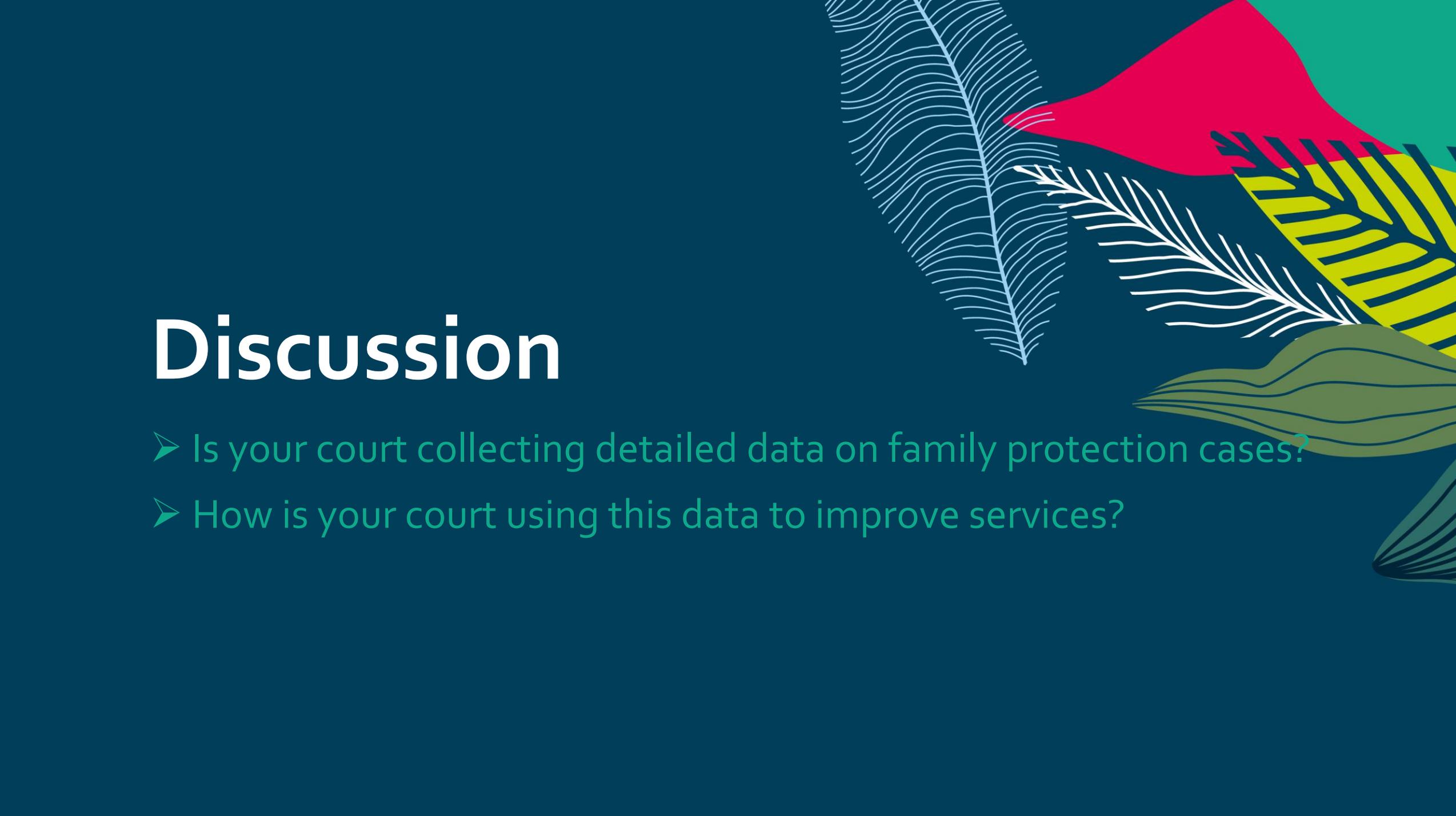
Number of protection order cases filed and finalised remotely including type of protection order (interim/ final)



Number of protection order cases heard remotely (Authorised Person/phone/ SMS/ email/ circuit court)



Number of breaches of protection order; family violence offences; penal code offences involving a family member.



Discussion

- Is your court collecting detailed data on family protection cases?
- How is your court using this data to improve services?

Inclusive court services for people with disabilities

'Women and children with disabilities are simply not turning up at court.....'

Yet, estimated **17%** people in the Pacific have some form of disability: **1.708 million** people

'Women and girls with disabilities face a double, or triple burden of discrimination: being female, having a disability and being among the poorest of the poor. **This heightens their risk of experiencing abuse and violence'**



Inclusive court services for people with disabilities

Starting with the data.....

Questions could be adapted for use in court forms and would enable courts to better assist people with a disability when they seek to access Pacific courts

NOTE: QUESTIONS FOR CIVIL/ FAMILY CASE FORMS

- Q1** Do you have a disability, impairment or long-term health condition that may affect your participation in court?
Yes/ No
- Q2** Tick any of the following that are appropriate:
- Do you have difficult seeing?
 - Do you have difficulty hearing?
 - Do you have difficulty walking or moving around?
 - Do you have difficulty understanding or concentrating?
 - Do you have difficulty being understood by others?
- Q3** Would you like the court to contact you to discuss beforehand what help can be provided to you to make it easier for you to participate in and be ready for your court case? Yes/ No

Courts collecting disability data: Marshall Islands and Palau. Tonga has a Court disability policy



Discussion



How could your court best reach and provide to people with disabilities:

- Information
- Services
- Data collection?

Drawing the threads together

- Key points and ideas from discussions
- Sharing guidelines, tools, and resources developed by courts
- Identifying next steps

