



Ten years of reporting Family Protection Acts across the Pacific 2011- 2022

PJSP Baseline Report

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Regional landscape for family protection/ domestic violence legislation

2008	Vanuatu	Family Protection Act
2009	Fiji	Domestic Violence Act
2011	Marshall Islands	Domestic Violence and Protection Act
2012	Palau	Family Protection Act
2013	Papua New Guinea	Family Protection Act
2013	Tonga	Family Protection Act
2013	Samoa	Family Protection Act
2014	Kosrae State FSM	Family Protection Act
2014	Solomon Islands	Family Protection Act
2014	Kiribati	Family Peace Act
2014	Tuvalu	Family Protection and Family Violence Act
2017	Nauru	Domestic Violence and Family Protection Act
2017	Cook Islands	Family Protection and Support Act
2017	Pohnpei State FSM	Domestic Violence Act

Source: Pacific Women, [Working together to implement domestic violence legislation across the Pacific](#), 24 December 2019.

I wish to acknowledge the support of Chief Justices, judges and court staff who have been very generous in sharing how they collect, analyse, and publish court data on Family Protection Act cases in the Pacific, how court services have changed during the COVID19 pandemic and their ideas on how family protection services can be improved in future.

I am also grateful for the insights of the Pacific Justice Sector Programme team of staff and advisors and the sharing of their knowledge and expertise.

- Cate Sumner, Author



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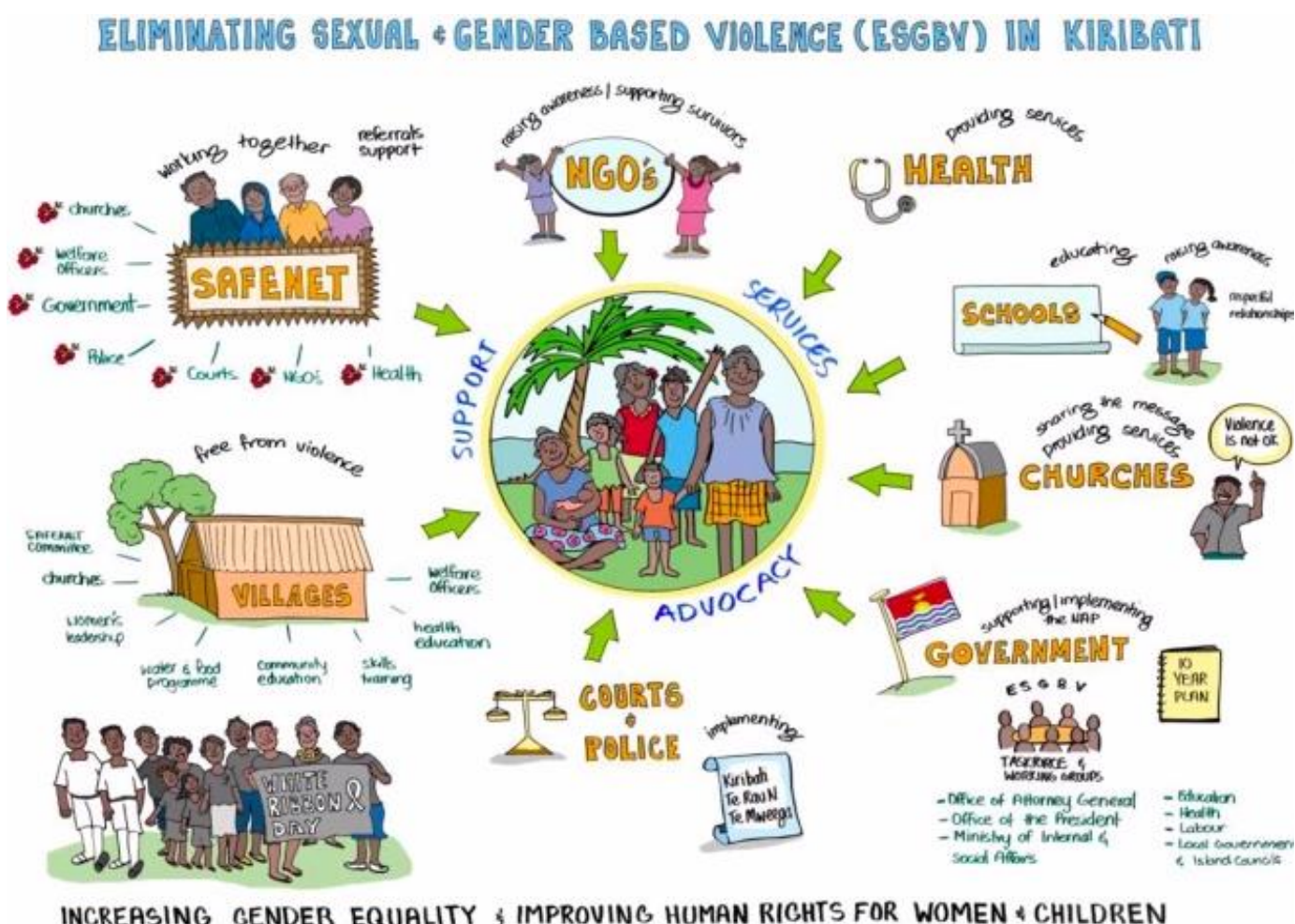
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Introduction

Courts are one part of a national response to ending family and other violence against women and girls.

Publishing key data on Family Protection Act cases that come to court is critical information to support Government stakeholders and Non-Government Organisations in their understanding of what is working well and what needs to be improved.

PJSP will update this report each year and continue to work with Pacific Courts to strengthen their Annual Reporting on Family Protection Act cases.



10 Key findings

- ▲▲▲▲▲ **5 of 15** Pacific courts published a 2020 Annual Report that included data on protection order cases filed and finalised.
- ▲▲ **2 of 15** Pacific courts published a 2020 Annual Report that included data on the outcomes of protection order cases.
- △ **0 of 15** Pacific courts published a 2020 Annual Report that included information on the percentage of cases with conditions related to contact, custody of children, maintenance and residence.
- ▲ **1 of 15** Pacific courts published a 2020 Annual Report that included information on who assisted an applicant to file an application for a protection order.
- ▲▲▲ **3 of 15** Pacific courts published a 2020 Annual report that included information on the filing of protection order cases by registry or geographic location across a country.
- ▲▲▲ **3 of 15** Pacific courts published a 2020 Annual Report that included information on the gender of applicants' seeking a protection order.
- ▲▲ **2 of 15** Pacific courts published a 2020 Annual Report that included information on whether a party in a protection order case has a disability.
- ▲ **1 of 15** Pacific courts published a 2020 Annual Report that included information on the nature of the relationship between an applicant and a respondent in a protection order case.
- △ **0 of 15** Pacific courts published a 2020 Annual Report which indicated how many protection order or family violence cases had been filed or heard using phone or other remote technologies
- ▲▲▲ **3 of 15** Pacific courts published a 2020 Annual Report that included information on domestic violence cases brought under either family protection legislation or criminal codes where a domestic relationship is established.

Court Annual Reports

Court Annual Reports provide information to the public on the number of protection order and criminal family violence cases that the courts receive and hear each year, how these urgent cases are heard across hundreds of islands and the outcomes in these cases.

Without transparency of key data on protection order and family violence cases it is very difficult for countries to measure progress against National Plans on Ending Family Violence and Ending Violence Against Women and Girls as well as the actions outlined in the Pacific Leaders Gender Equality Declaration.

This 2022 Baseline Report provides 10 key findings on those Pacific courts that collect, analyse and publish data on protection order and family violence cases and 8 recommendations on key directions to strengthen these endeavours by 2030.



Sustainable Development Goal 5: Gender equality

While almost all countries in the Pacific have adopted specific gender policies and strategies, the resources for integrating and implementing these priorities are limited. Budgets for national women's offices are less than one percent of national appropriations.

Gender inequality is highlighted by the high prevalence rates of violence against women (more than 60 percent in Melanesia, and more than 40 percent in Polynesia and Micronesia).



Source: [Pacific Data Hub](#)

10 years on:

Pacific Leaders Gender Equality Declaration

2022 marks a decade since the signing of the Pacific Leaders [Gender Equality Declaration](#).

PACIFIC LEADERS GENDER EQUALITY DECLARATION

(Adopted 2012, reaffirmed 2015)

The Leaders of the Pacific Islands Forum met from 27 to 30 August 2012 in Rarotonga and brought new determination and invigorated commitment to efforts to lift the status of women in the Pacific and empower them to be active participants in economic, political and social life.

Leaders expressed their deep concern that despite gains in girls' education and some positive initiatives to address violence against women, overall progress in the region towards gender equality is slow. In particular Leaders are concerned that women's representation in Pacific legislature remains the lowest in the world; violence against women is unacceptably high; and that women's economic opportunities remain limited.

Leaders understand that gender inequality is imposing a high personal, social and economic cost on Pacific people and nations, and that improved gender equality will make a significant contribution to creating a prosperous, stable and secure Pacific for all current and future generations.

To realize this goal, Leaders commit with renewed energy to implement the gender equality actions of the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), the Millennium Development Goals (MDGs), the Revised Pacific Platform for Action on Advancement of Women and Gender Equality (2005 to 2015); the Pacific Plan; the 42nd Pacific Island Forum commitment to increase the representation of women in legislatures and decision making; and the 40th Pacific Island Forum commitment to eradicate sexual and gender based violence.

Policy actions: Pacific Leaders Gender Equality Declaration

To progress these commitments, leaders committed to implement specific national policy actions to progress gender equality including in the areas of:

Gender Responsive Government Programmes and Policies: to support the production and use of sex disaggregated data and gender analysis to inform government policies and programmes;

Ending Violence against Women: to implement progressively a package of essential services (protection, health, counselling, legal) for women and girls who are survivors of violence, and

To enact and implement legislation on sexual and gender-based violence to protect women from violence and impose appropriate penalties for perpetrators of violence.

Policy actions & the courts: Pacific Leaders Gender Equality Declaration

Relevant policy actions

- I. Production and use of sex disaggregated data
- II. Implement progressively a package of essential services including legal services for women and girls who are survivors of violence
- III. Impose appropriate penalties for perpetrators of violence

Court responses

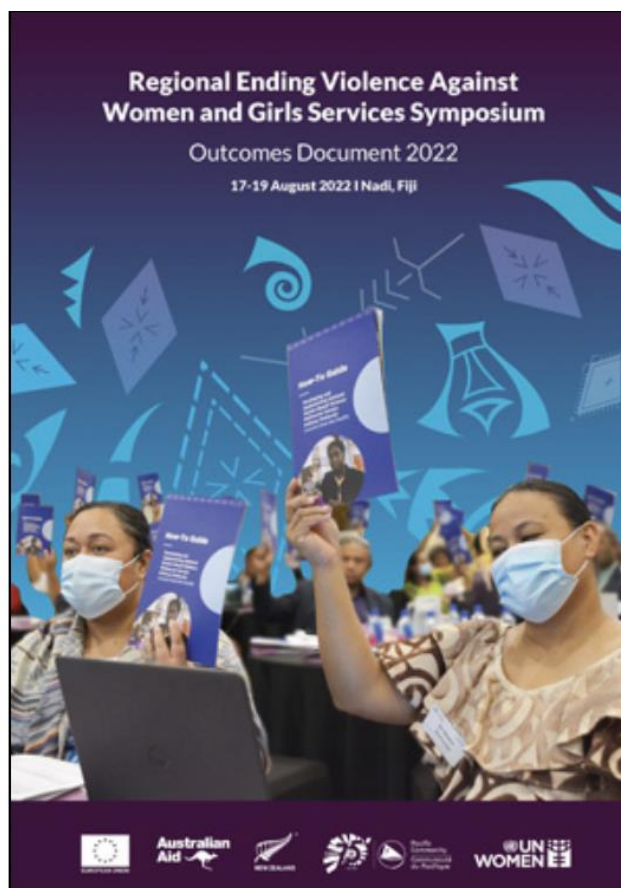
- I. Publish sex disaggregated data on Family Protection Act and other violence cases involving women and girls
- II. Publish information on the legal aid services available to women and girls who are survivors of violence and the pathways for these cases coming to court
- III. Publish data on outcomes in Family Protection Act and other violence cases involving women and girls

Pacific Regional Working Group on Family Protection/ Domestic Violence Legislation

The first meeting of the [Regional Working Group on Family Protection / Domestic Violence Legislation](#) was held in Fiji in May, 2019 and three priorities were identified:

- I. Counselling
- II. Advisory Committees and Councils: to guide, inform, coordinate and improve the implementation of family protection / domestic violence legislation.
- III. Data Collection and Monitoring and Evaluation – The Working Group identified the priority need of member countries to strengthen data collection and monitoring and evaluation frameworks, in order to ensure the effective monitoring and implementation of family protection / domestic violence legislation as well as the effective and appropriate measurement of the outcomes and impacts of the legislation.

The [third meeting](#) was held in the Fiji in August 2022 and the recommendations for Data Collection and Monitoring and Evaluation are included in the [RWG Outcomes Document](#).



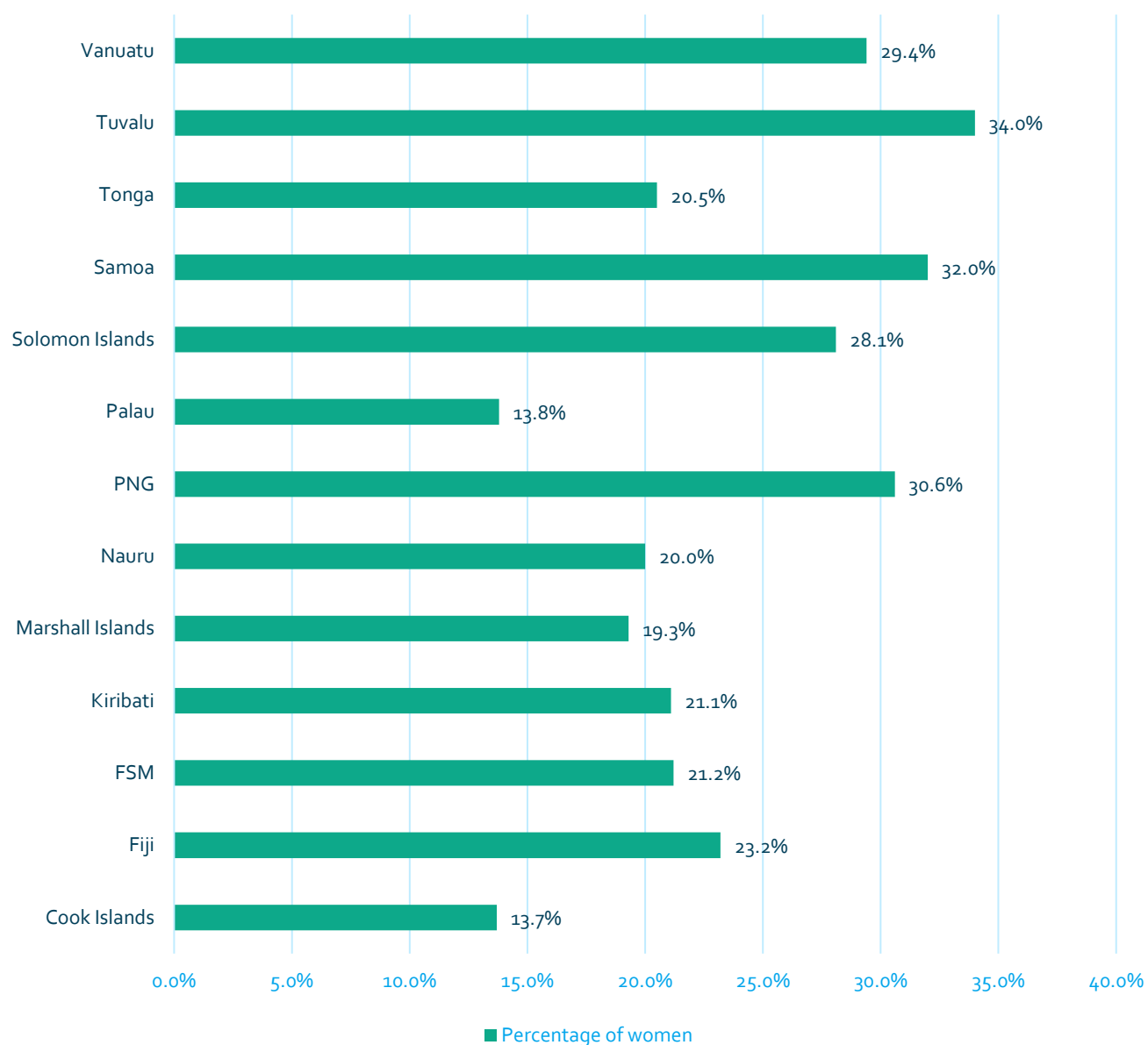
SDG 5

Gender equality

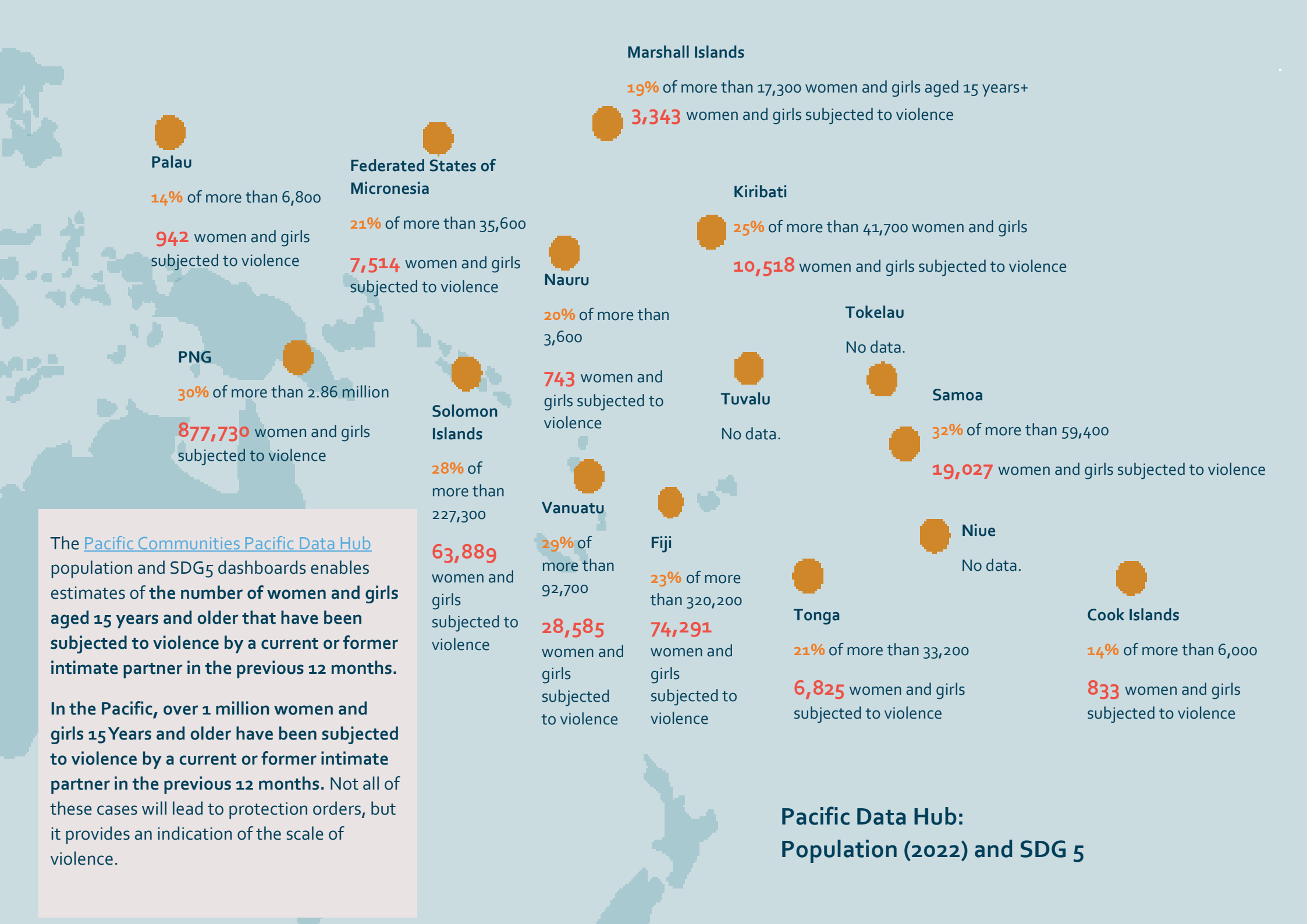
In the Pacific, a significant proportion of women and girls aged 15 years and over have been subjected to violence from a current or former partner in the previous 12 months.

Ever-partnered women and girls

Victims of violence by a current or former intimate partner



Source: [Pacific Data Hub](#)



The [Pacific Communities Pacific Data Hub](#) population and SDG5 dashboards enables estimates of **the number of women and girls aged 15 years and older that have been subjected to violence by a current or former intimate partner in the previous 12 months.**

In the Pacific, over 1 million women and girls 15 Years and older have been subjected to violence by a current or former intimate partner in the previous 12 months. Not all of these cases will lead to protection orders, but it provides an indication of the scale of violence.

**Pacific Data Hub:
Population (2022) and SDG 5**

Key finding 1:

Protection order court data on cases filed, finalised and clearance rate (by interim/ final)

13 Pacific countries enacting Family Protection Acts during 2008-2017, however only 5 courts in these countries present data on protection order cases in their Annual Reports.

5 of 15 Pacific Courts that engage with the NZ-funded Pacific Justice Sector Programme, published 2020 Annual Reports that included data on protection order cases filed and finalised. These courts were Kiribati, the Marshall Islands, Palau, Tonga and Vanuatu.

7 Family Protection Acts contain provisions on Annual Reporting of key data.

While the [Pacific Communities Pacific Data Hub](#) family violence prevalence data shows that **over 1 million women and girls 15 Years and older have been subjected to violence** by a current or former intimate partner in the previous 12 months, in the five countries where court data is published on protection order cases filed and finalised less than 1250 protection order cases were filed in the most recent 12 month reporting period.*

Based on the Court data available from 5 Pacific countries, **approximately 0.1% or 1 in 1000 women and girls 15 Years and older that have been subjected to violence sought a protection order.**

If protection order data from all 13 Pacific countries that enacted Family Protection Acts was considered, it is likely that significantly less than 1% of women and girls 15 Years and older that have been subjected to violence sought a protection order.

Without court data published in Annual Reports it is impossible to see if the Family Protection Acts promulgated across the Pacific have been effective in providing safety for women and their children.

*Family violence prevalence surveys were undertaken at different times and details of the national statistics agencies that have undertaken these surveys can be accessed on the [Pacific Data Hub](#).

Country	Latest published annual report	Protection Order data in annual report	Requirement to report on family violence data
Cook Islands	2016	No	No
FSM Supreme Court	2020	No, as Protection Orders not heard in Supreme Court	TBC
Fiji	Not in last decade	No	No
Kiribati ✓	2018-2021	Yes	Yes, annual statistics must be compiled at least annually (s44)
Marshall Islands ✓	2020	Yes	Yes, data on family violence must be collected, maintained and reported on (S927)
Nauru	2012	No	Yes, Family Protection Co-ordinating Committee must table annual report (s11)
Niue	2018-2019	No	N/A – no DV legislation
Palau ✓	2020	Yes	No
PNG Magistrates Court	2012	No as Magistrates Court has not published an Annual Report since 2012	No
Samoa	2018-2019	No	No
Solomon Islands	2015-2019	No	Yes, Family Protection Advisory Council reports on any matters relating to domestic violence (ss49,53)
Tokelau	2016-2018	No	N/A – No DV legislation
Tonga ✓	2020-2021	Yes	Yes, Family Protection Advisory Council reports annually (s37)
Tuvalu	Not in last decade	No	Yes, CEDAW National Coordinating Committee reports annually (s58)
Vanuatu ✓	2020	Yes	Yes, FPA Act must be reviewed within 3 yrs (s52)

Key finding 2:

Outcomes in protection orders

2 of 15 Pacific Courts that engage with the NZ-funded Pacific Justice Sector Programme published Annual Reports in 2020 that included data on the outcomes of protection order cases. These courts were Palau and Tonga.

Publishing data on the outcomes of protection order applications is important to understand whether applicants are only receiving emergency short-term protection orders or whether these are being translated into final orders that provide longer-term protection.

Example from Tonga:

Of the different types of orders sought, 54% were for Emergency Protection Order (EPO), 44% were for Temporary Protection Order (TPO), 1% for Final Protection Order and 1% other.

Of all EPO applications, 94% were granted, 4% were refused and 2% were withdrawn.

Of all TPO applications, 94% were granted and 6% were refused.

Of the 1% application for FPO, TPO were granted instead. Of the remaining 1% application, all were refused.

Source: Courts of Tonga Annual Report 2020-2021 (Court of Appeal, Supreme Court, Land Court, Magistrates Court, pp64-65.

Example from Palau:

In Palau, fifty-four or 90% of the civil protective order cases resulted in a final protective order granted; five or 8% of the cases had the temporary restraining orders terminated by petitioner and/or lapsed; and only in only one case was a protective order not granted.

Source: 2020 Court Annual Report: Access to Justice in Light of COVID-19, p38.

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Source: 2020 Court Annual Report: Access to Justice in Light of COVID-19, p38.

Key finding 3: Conditions in protection orders

10 of 15 Pacific Courts that engage with the NZ-funded Pacific Justice Sector Programme, published an Annual Report in 2020 with information on conditions that were included in protection orders for:

- Contact
- Custody of children
- Maintenance
- Residence

These conditions are included in family protection legislation across the Pacific. Presenting data on these conditions is important in order to show the types of support that applicants are receiving in their final protection orders.

Conditions available under family protection legislation				
Country	Contact	Custody of children	Maintenance	Residence
Cook Islands	✓			✓
FSM	Dependent on State	TBC	TBC	TBC
Fiji	✓	✓	✓	✓
Kiribati	✓	✓	✓	
Marshall Islands	✓			✓
Nauru	✓	✓	✓	✓
Niue				
Palau	✓	✓		
PNG	✓			✓
Samoa	✓	✓	✓	✓
Solomon Islands	✓	✓	✓	✓
Tokelau				
Tonga	✓	✓	✓	✓
Tuvalu	✓	✓	✓	✓
Vanuatu	✓			✓

Key finding 4:

Assistance in filing protection order cases

1 of 15 Pacific courts that engage with the NZ-funded Pacific Justice Sector Programme, published an Annual Report in 2020 that included information on who assisted the applicant to file the protection order case.

The courts of Tonga Annual Report shows that almost half of the protection orders cases were filed by the applicant themselves, 46% were filed on behalf of the applicant by the Tonga Family Protection Legal Aid Centre, 3% by private lawyers and 2% by the Tonga Police Domestic Violence Unit.

This data helps national stakeholders working on the implementation of national strategies to end family violence better understand how these cases come to court and the importance of access to free legal services for women and girls experiencing family violence.

PROTECTION ORDER DISAGGREGATED DATA

These are applications for protection orders under the FPA and are regarded as family protection cases.

In all family protection cases, 49% were filed directly to Court in accordance with s.10(1) (a) (c) (3) of the FPA, 46% were filed by FPLAC, 3% were filed by private lawyers, and 2% were filed by Tonga Police Domestic Violence Unit.

Of all the applicant for protection orders, 76% were female, 24% were male and 39% involved children.

Source: Courts of Tonga Annual Report 2020-2021 (Court of Appeal, Supreme Court, Land Court, Magistrates Court, p64.

Key finding 5:

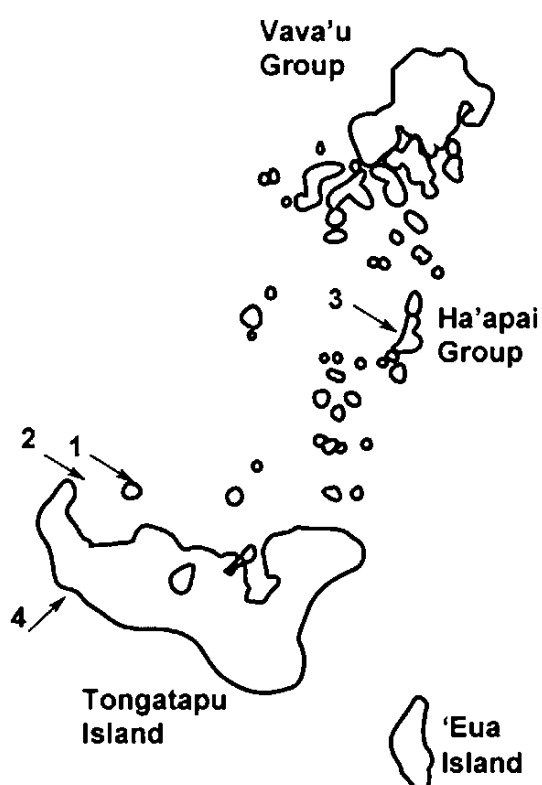
Geographic location of protection order cases filed and heard

3 of 15 Pacific Courts that engage with the NZ-funded Pacific Justice Sector Programme, Kiribati, Palau and Tonga, published an Annual Report in 2020 that included information on the filing of protection order cases by registry or geographic location.

This data shows whether women are only filing protection orders in urban areas and on islands where courts are located or whether the mechanisms for remote filing and hearing of these cases outlined in Family Protection Acts are being utilised.

In Kiribati, 8 protection order cases were filed in the South Tarawa registry in 2020 with no protection order cases being filed in other registries.

In Palau, the 2020 Annual Report shows that 85% of restraining order applications were from applicants living in urban areas with the remaining 15% from rural and outer islands.



In Tonga, protection order cases were filed in Ha'apai, Vava'u and Tongatapu registries. Courts in Tonga also showed the average number of days that it took to hear the case at each registry which in 2020 ranged from 36 days in Ha'apai to 83 days in Tongatapu.

Key finding 6:

Gender data on protection order applicants

3 of 15 Pacific Courts that engage with the NZ-funded Pacific Justice Sector Programme, Marshall Islands, Palau and Tonga, published an Annual Report in 2020 that included information on the gender of applicants seeking protection orders.

This data shows who is seeking protection under national family protection legislation.

In the Marshall Islands, all 4 domestic violence cases seeking protection orders were filed by women.

In Palau in 2020, 58% of applicants for protection orders were female, 27% were male and 15% both male and female applicants.

In Tonga in 2020/2021, 77% of applicants for protection orders were female, 19% were male and 4% parents or guardians of children.

Key finding 7:

Disability data

2 of 15 Pacific Courts that engage with the NZ-funded Pacific Justice Sector Programme, Palau and the Marshall Islands, published an Annual Report in 2020 that included information on whether the parties have a disability.

In Palau, the 2020 Annual Report shows that 6% of restraining order applications were from applicants living with a disability.

8 of the 15 of the PJSP countries adopted the Washington Group Short Set questions in their latest census: Palau (2015), Niue (2016), Samoa (2016), Tonga (2016), Fiji (2017), Solomon Islands (2019), Vanuatu (2020) and Kiribati (2020).

These questions could be adapted for use in court forms to assist people with a disability seeking to access the 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



Source: PJSI 2020 Court Trend Report p83 <https://www.fedcourt.gov.au/pjsi/reports/technical-reports/PJSI-2020-Court-Trend-Report-v2.pdf>

Key finding 8:

Relationship between the applicant and respondent

1 of 15 Pacific Courts that engage with the NZ-funded Pacific Justice Sector Programme, Tonga, published an Annual Report in 2020 that included information on the nature of the domestic relationship between the applicant and respondent.

These relationships included married couples, other intimate partners, parents and children, family members living in the same household.

Information on the relationship between the parties is important for:

- conditions that may be part of a protection order
- how to adequately protect the applicant at the time of a court hearing, including whether a remote court hearing format is a safer option
- consideration of family violence prevention strategies

Key finding 9:

Remote filing and hearing of protection order and FV cases

0 of 15 Pacific Courts that engage with the NZ-funded Pacific Justice Sector Programme indicated in their Annual Reports whether protection order or family violence cases had been filed or heard using phone or other remote technologies.

Most of the Family Protection Acts provide for the remote filing and/or hearing of protection order cases. During the COVID19 pandemic, many courts have issued regulations on ways that courts can use phone or web-based technology for the remote filing and hearing of cases.

This data shows whether courts have set in place procedures for phone or other remote means of filing and hearing of FPA cases due to the need to provide rapid protection to applicants.

Key finding 10:

Data on Domestic Violence cases

3 of 15 Pacific Courts that engage with the NZ-funded Pacific Justice Sector Programme, Kiribati, Palau and Tonga, published an Annual Report in 2020 that included information on domestic violence cases brought either under Family Protection legislation or criminal codes where a domestic relationship is established.

Family Protection Acts outline criminal matters as well as mechanisms for obtaining protection orders. It is important that criminal family violence data is also presented in Annual Reports to provide a complete picture on how Family Protection Act legislation is working in practice. Sex, age and disability status of victims and defendants should also be presented for these cases.

In Kiribati, 501 domestic violence cases were filed in 2021 in South Tarawa registry. No domestic violence cases were filed in other registries in Kiribati.

In Palau, 66 Family Protection Act criminal charges were filed in 2020 by the Republic of Palau in the Supreme Court and Court of Common Pleas.

In Tonga in 2020/2021, 300 criminal cases were decided in the family jurisdiction of the Magistrates Court under the Family Protection Act.


Recommendations for National Courts

1	Publish data on FPA family violence and protection order cases in Annual Reports or other periodic update documents such as the Family Protection Act Update
2	Publish cases filed, finalised and clearance rates in total and by region/ registry to understand if protection services are being provided to applicants nationally or only in specific locations.
3	Publish data on the type of protection order requested and granted (interim and final).
4	Publish data on the gender, age and disability status of applicants in protection order cases and complainants in family violence cases and the relationship between the parties.
5	Publish outcomes data for family violence and protection order cases, including the conditions contained in the orders relating to contact, custody of children, maintenance, or residence.
6	Publish the average duration of family violence and protection order cases from filing to finalisation for both interim and final protection orders.
7	Publish the number of cases where the filing and/or hearing of a family violence or protection order case takes place by phone or other remote means.
8	Publish data on organisations that assist applicants or complainants to bring family violence and/or protection order cases to court.

Family Protection Act Cases Update

PJSP has prepared a simple visual document that courts may wish to adapt for regular updates with external stakeholders in their country.

PJSP has discussed this FPA Update with a number of Pacific Courts as well as Pacific Communities and is able to assist courts present their court data in this format if requested.

- 1**  Cases filed, finalised and clearance rates including type of protection order (interim/ final) and location (by registry/ island)
- 2**  Sex/gender disaggregated data for the applicant and respondent in protection order cases
- 3**  Family Protection Act cases as a % of total cases filed in the Magistrates Court
- 4**  Average duration of a protection order case – interim/ final/ total cases and disaggregated by registry
- 5**  Outcomes in protection order cases:
 - Granted/ not granted/ withdrawn (for both final or interim protection orders)
 - conditions that were included in protection orders for contact, custody of children, maintenance, residence
- 6**  Number of cases in which any of the parties in a protection order case indicate they have a disability
- 7**  Number of cases where assistance provided to file protection order applications and who assisted: Women's Centre/ Police/ Authorised persons/ Public solicitor/ private lawyer
- 8**  Relationship between the parties: intimate partner, other family member
- 9**  Number of protection order cases filed and/ or heard remotely including type of protection order (interim/ final)
- 10**  Number of breaches of protection order; family violence offences; penal code offences involving a family member.