

2021 Family Protection Act cases in Vanuatu

A review of case management data and 2021 court user survey

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This report is possible due to the commitment of the Honourable Vincent Lunabek, Chief Justice of Vanuatu, to the collection and publication of court data on family protection cases and to undertaking a court user survey in 2021.

I wish to acknowledge the support of the Chief Justice of Vanuatu, the Chief Magistrate and Wendy Raptigh for their insights during discussions of the protection order case management data and court user survey findings presented in this report.

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



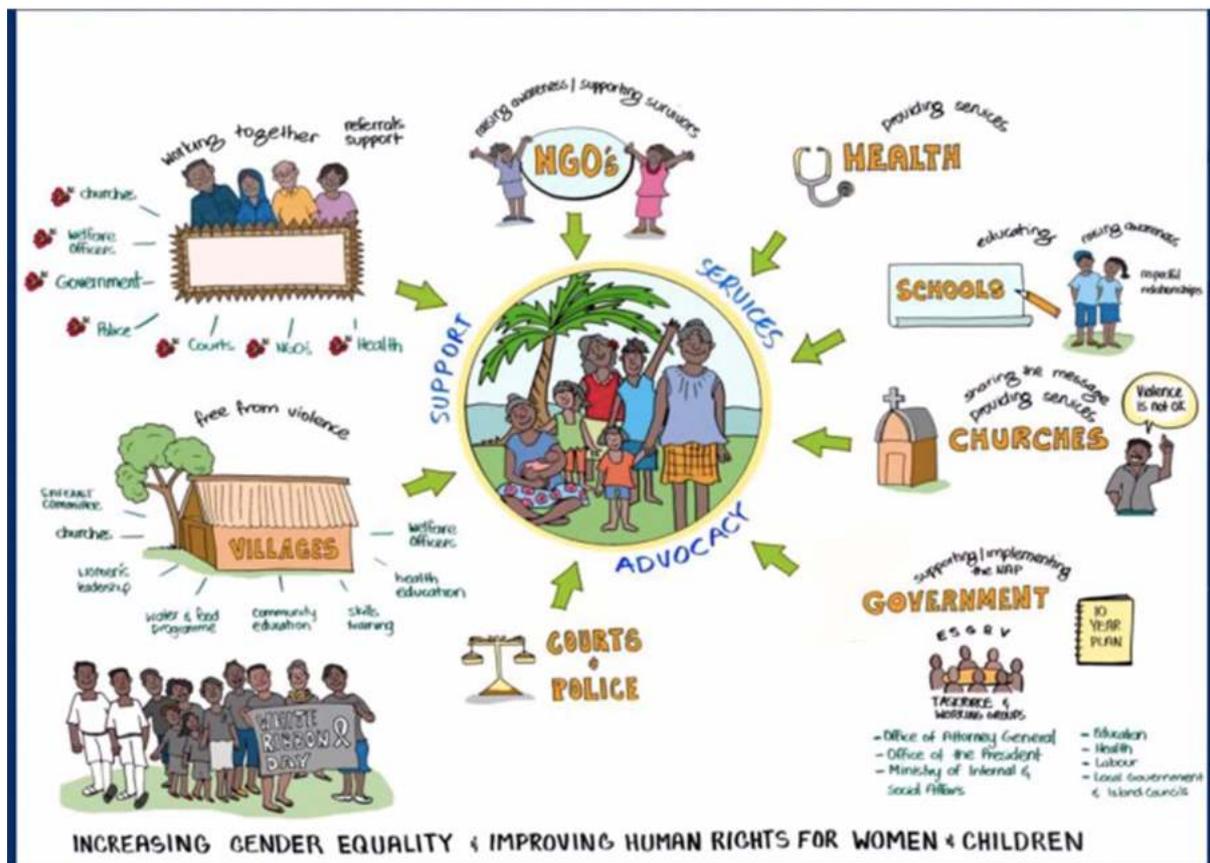
Introduction

Family Protection Acts, and the Courts role in implementing them, form 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 to provide the best service to women, girls, boys and men who come to the courts for protection orders and other family law outcomes when faced with family violence.

Vanuatu was the first country in the Pacific to pass a Family Protection Act in 2008 and protection order cases form the single largest case type in the Magistrates Court of Vanuatu comprising 40% of cases.

National Strategy for Ending Family Violence



Next steps

Following a review of the Family Protection Act data and court user survey results, the Chief Justice of Vanuatu and Chief Magistrate agreed on the next three steps:

STEP 1: The Vanuatu judiciary will produce a complete set of data on protection order and other family protection act cases that includes the Family Protection Act indicators mentioned in this report. This Family Protection Cases Quarterly Report will be used by the Vanuatu judiciary as the basis to improve services for those seeking protection in Vanuatu.

This may require:

- (i) some new data fields to be added to the case management system to capture data on the Family Protection Act indicators
- (ii) training of staff to ensure that the data is entered in the case management system and why it is important and
- (iii) automated reports for the Family Protection Act indicators so that it is easy for this information to be compiled and reviewed on a monthly/ quarterly/ annual basis.

Protection order cases are currently 40% of all cases being filed in the Magistrates Court. However, 96% of the 1053 protection order cases filed in 2021 involved applicants living in or near the four towns where there is a resident magistrate.

STEP 2: The Vanuatu judiciary will work to receive and hear family protection cases in new ways for women, children and men who need protection outside urban areas. This may require:

- (i) developing clear procedures for the filing and hearing of protection order cases by phone and other means
- (ii) ensuring that any interim protection orders issued by Authorised Persons are referred to a magistrate for a final hearing of the protection order
- (iii) developing clear procedures for the service on the respondent of any interim and/ or final protection orders made
- (iv) using the remote hearing facilities that are being installed in the four magistrates courts at Port Vila, Luganville, Lakatoro and Isangel
- (v) communicating these new remote ways of filing and hearing family protection cases to the Vanuatu Women's Centre, police, and other organisations that support women, children and men experiencing violence in Vanuatu

(vi) communicating these new remote ways of filing and hearing family protection cases to the people of Vanuatu through radio and other means

STEP 3: The Vanuatu judiciary will publish annually a summary format of the data on family protection cases. This will enable organisations in Vanuatu that support women, children and men experiencing violence to understand:

- How people needing protection orders and related family orders can access the courts from all regions of Vanuatu
- Whether access to the courts is better in some parts of the country than others and how to improve access for people in certain areas.
- The outcomes for applicants in interim and final protection orders, and
- Whether there are related conditions in protection orders for custody, maintenance, sole occupancy or counselling and how these can be best enforced.

Organisations that support women, children and men experiencing violence in Vanuatu can also assist with communicating new remote ways of filing and hearing family protection cases as these are developed.



10 years on

Pacific Leaders Gender Equality Declaration

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

Leaders expressed their deep concern that ...overall progress in the region toward gender equality is slow. In particular, Leaders are concerned that ...violence against women is unacceptably high.

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.

To progress these commitments, Leaders commit to implement specific national policy actions to progress gender equality in the areas of gender responsive government programs and policies, decision making, economic empowerment, ending violence against women, and health and education.

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

Prevalence of violence against women and girls

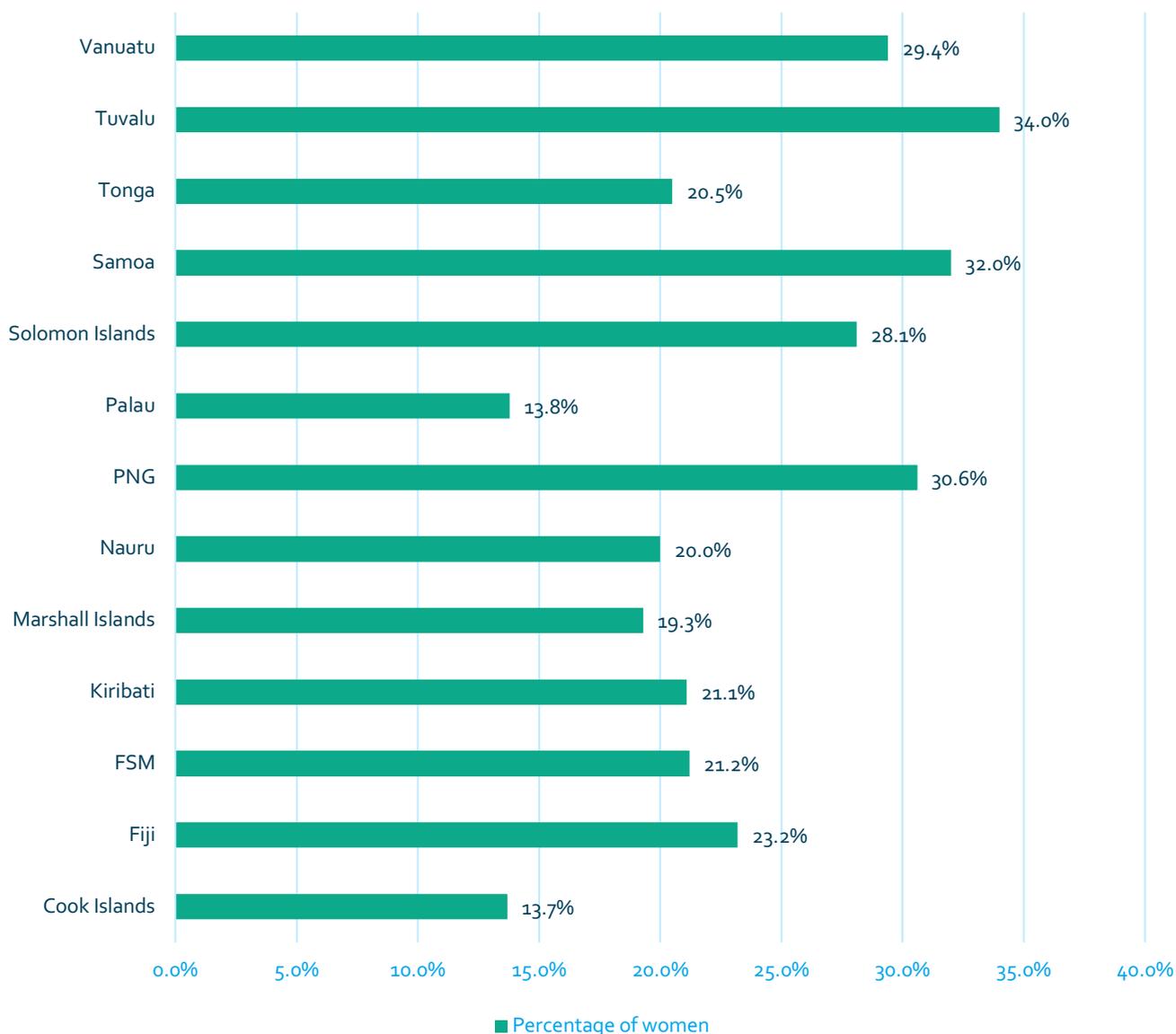
The Pacific Communities [Pacific Data Hub and SDG5 dashboards](#) enables estimates of the number of women and girls aged 15 years and older that have been subjected to violence by a current or former intimate partner in the previous 12 months.

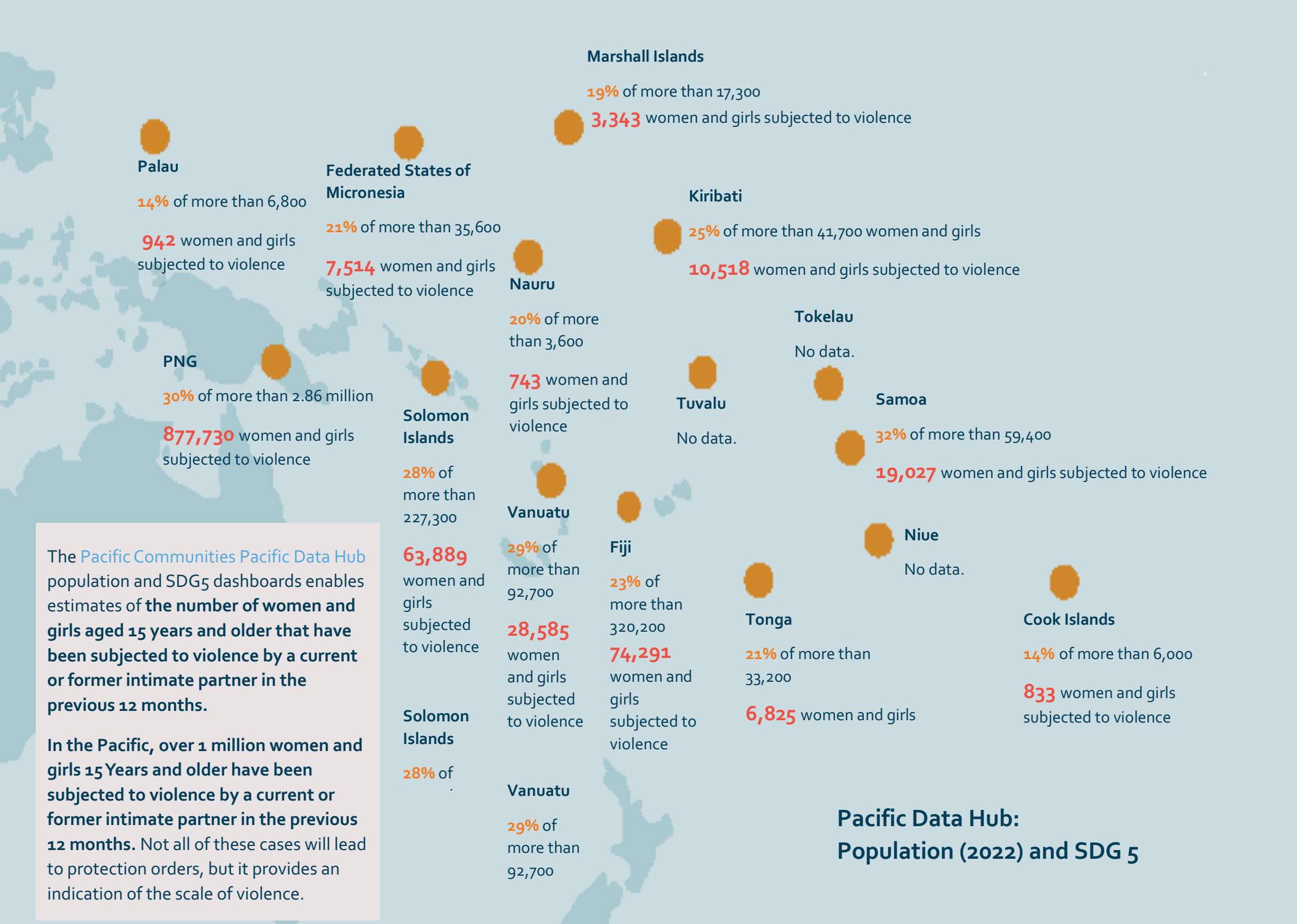
Not all of these cases will lead to protection orders, but it provides an indication of the scale of violence.

In Vanuatu, this is 29% of the more than 92,700 women and girls aged 15 years or over 28,585 women and girls estimated to be subjected to violence in the previous 12 months.

Ever-partnered women and girls

Victims of violence by a current or former intimate partner





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.

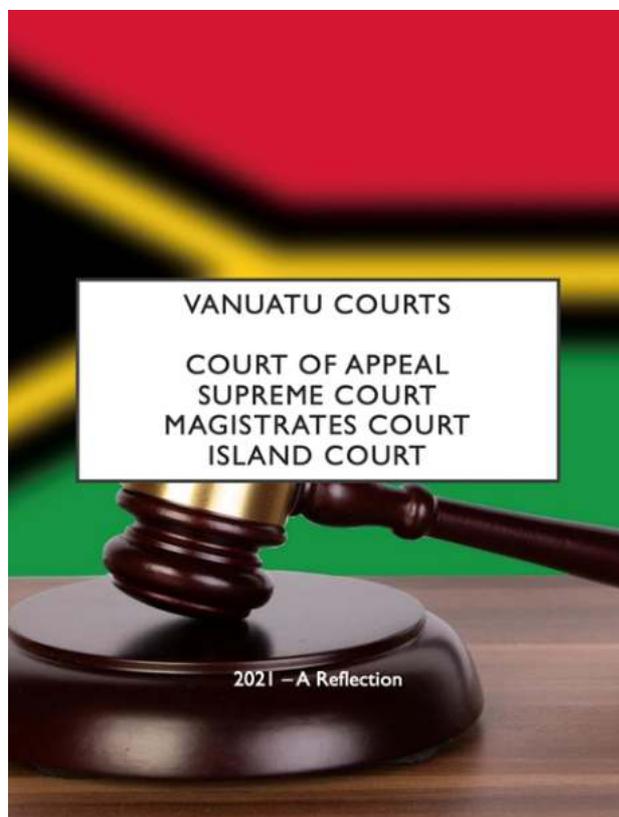
**Pacific Data Hub:
Population (2022) and SDG 5**



Vanuatu Protection Order Case Management Information

Data on Family Protection Act cases

Overview from the Court case management system



Vanuatu was the first of 13 Pacific countries to enact a Family Protection Act in 2008.

The Vanuatu judiciary has published data in their Annual Report on protection order cases since 2012 and more detailed data in their Annual Statistics since 2015.

Source: Vanuatu Courts: Court of Appeal, Supreme Court, Magistrates Court, Island: 2021 – A Reflection

Family Protection Act case overview:

12 Indicators



Indicator 1: Protection order court data on cases filed, finalised and clearance rates including type of protection order (interim/ final)

The number of cases filed and finalised should be able to be obtained using a Court’s case management system.

The clearance rate is obtained by dividing the number of cases finalised by the number of cases filed.



Indicator 2: Protection order court data on cases filed, finalised and clearance rates including type of protection order (interim/ final)(by registry/ island)

The number of cases filed and finalised in each registry should be able to be obtained using a Court’s case management system. The clearance rate is obtained by dividing the number of cases finalised by the number of cases filed in respect of each registry.



Indicator 3: Protection order cases as a percentage of total cases filed in the Magistrates Court

The percentage is obtained by dividing the number of protection order cases by the number of total cases filed in the Magistrates Court.



Indicator 4: Average duration of a protection order case – total cases and disaggregated by registry

The average duration is obtained by totalling the number of days for each case from the date the case is filed to the date it is finalised and then dividing this by the number of cases finalised. This should be calculated in respect of each registry, as well as at a national level.



Indicator 5: Sex/ gender disaggregated data for the applicant and respondent in protection order cases

The number of male and female applicants and respondents in protection order cases should be able to be obtained using a Court’s case management system.



Indicator 6: Number of cases in which any of the parties in a protection order case indicate they have a disability

The number of applicants and respondents in protection order cases that have a disability can be included as a data field in a Court case management system.



Indicator 7: Number of protection order cases - relationship between the applicant and respondent

Relationship between parties may include: family member, intimate partner, known person (neighbour, friend, employer, work colleague), stranger, other (place to specify).



Indicator 8: Number of applicants who were assisted with the preparation of their protection order case and who assisted: Women’s Centre/ Police family protection unit/ Authorised persons/ Public solicitor/ private lawyer

How a person is assisted to come to court can be included as a data field in a Court case management system.



Indicator 9: Outcomes in protection order cases

The outcomes of protection order cases can be included as a data field in a Court case management system.

Outcomes can be broken down by:

- granted, not granted and withdrawn.
- person hearing the application (for example, magistrate or authorised person); and/or
- the type of protection order (for example, final or interim).



Indicator 10: Number of protection order cases filed and finalised remotely including type of protection order (interim/ final)

This indicator should be able to be obtained using a Court’s case management system.



Indicator 11: Number of protection order cases heard remotely (Authorised Person/phone/ SMS/ email/ circuit court)

This indicator should be able to be obtained using a Court’s case management system.



Indicator 12: Number of FPA criminal cases or other criminal offences that involve a family member, including:

- a breach of a protection order;
- family violence offences outlined in the FPA;
- criminal offences filed under the Penal Code involving a family member.

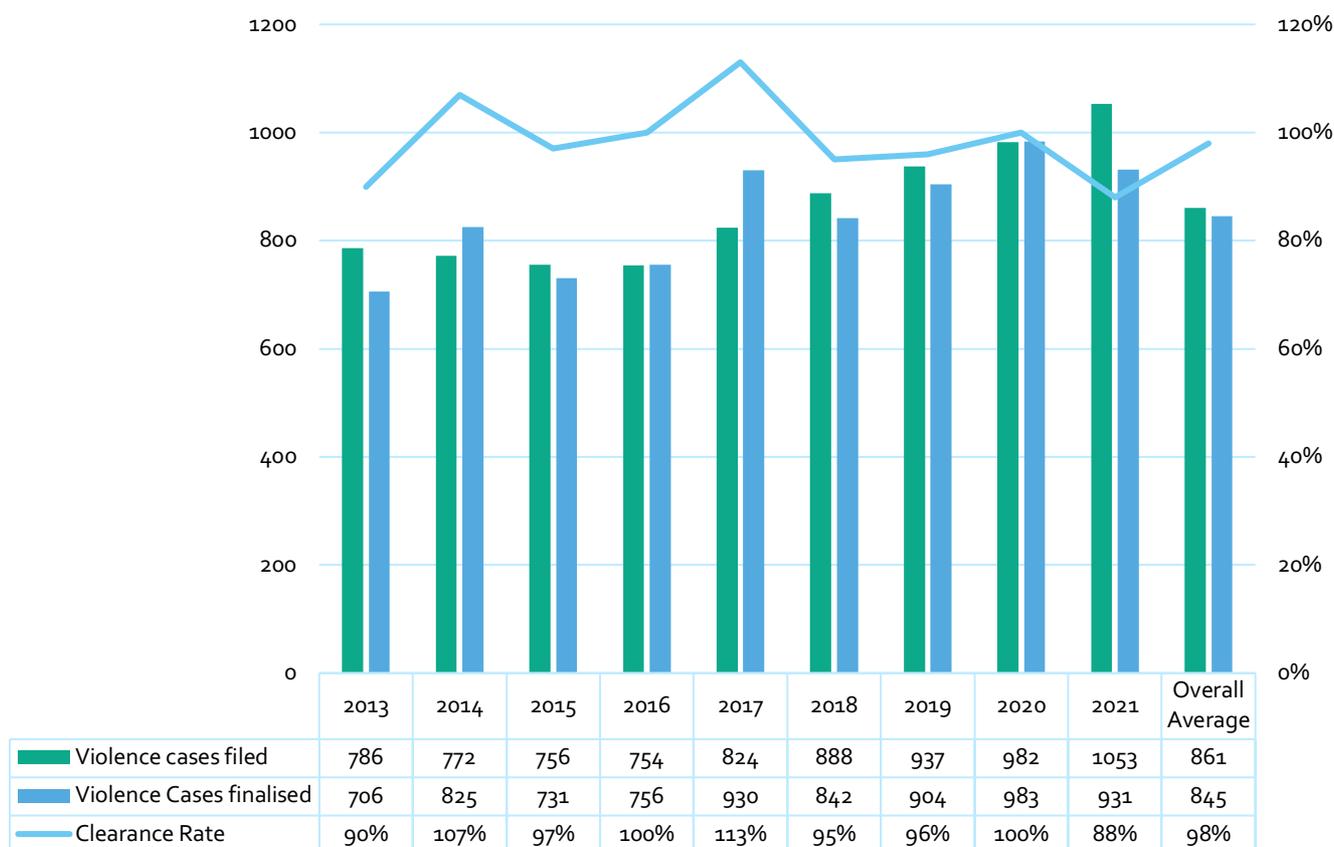
Indicator 1:

Protection order court data on cases filed, finalised and clearance rates including type of protection order (interim/final)

In 2021, 1053 protection order cases were filed in the Vanuatu Magistrates Court. This is an increase from the 786 cases filed in 2013. This is a positive trend given the prevalence of violence against women in Vanuatu and demonstrates that more protection order cases are coming to court.

For the 1053 protection order (violence) cases filed and the 931 cases finalised in 2021, the Vanuatu case management system does not currently identify how many of these protection order cases were orders for interim protection cases or were final protection orders. Consequently, this data is not currently presented in the Vanuatu Annual Report.

The clearance rate for protection order cases in 2021 dropped to 88% from the 100% clearance rate maintained in 2020. The clearance rate for civil cases in 2021 was 108%. This trend data is important as it alerts the court to a change that it may wish to address.



Source: Vanuatu Courts: Court of Appeal, Supreme Court, Magistrates Court, Island: 2021 – A Reflection

Indicator 2:

Protection order court data on cases filed, finalised and clearance rates including type of protection order (interim/final)(by registry/ island)

The clearance rates for protection order cases in Luganville and Port Vila in 2021 are 98% and 91% respectively.

The clearance rate drops significantly when protection order cases are heard in Lakatoro, Isangel and Sola, with clearance rates at 79%, 73% and 67% respectively. This suggests that the registries have varying capability to process protection order matters and provide a timely resolution of applications.



Source: Data Provided by Vanuatu Courts

Indicator 2: Continued

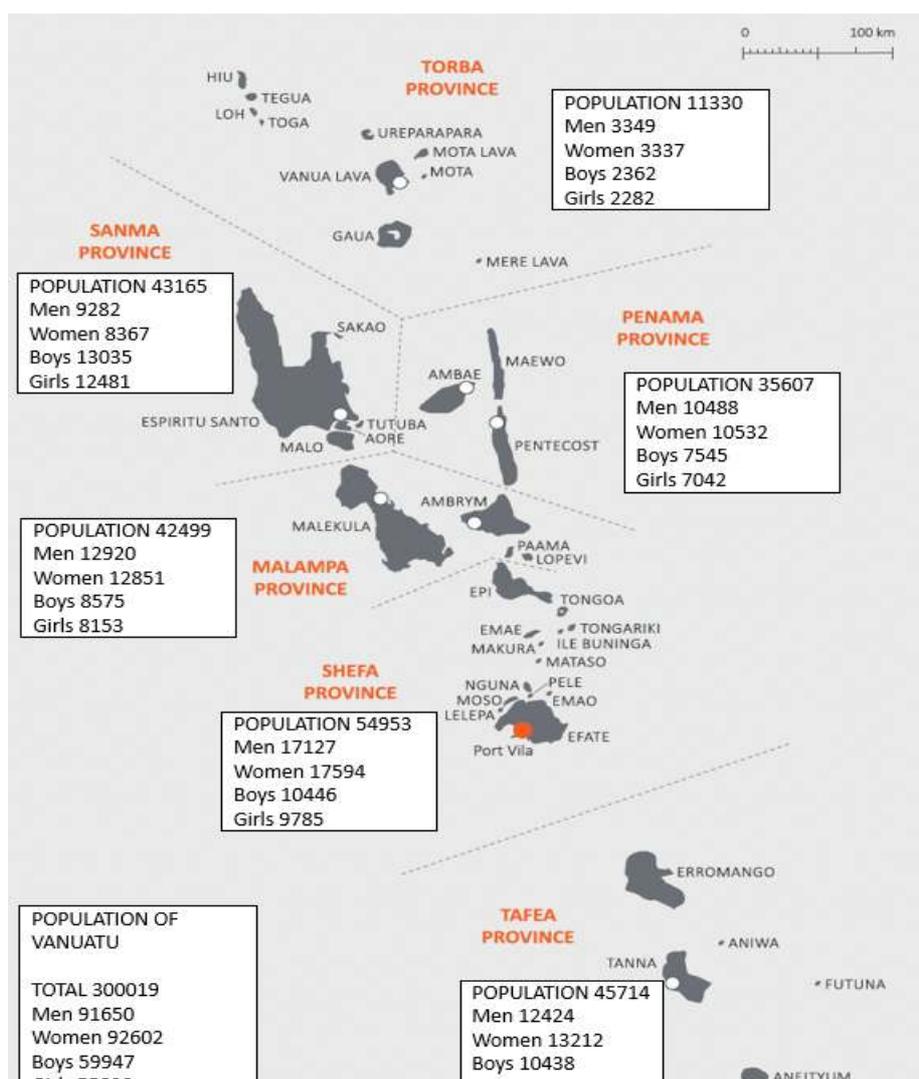
78% of the Vanuatu population live in rural areas.

- Yet only 4% of protection order cases that were filed in 2021 (46 cases) came from outside the four locations where there are permanent registries.

22% of the Vanuatu population live in urban areas.

- Yet in 2021, 71% of all protection order cases (1007 cases) were filed in urban areas.

This data is important as it shows that very few women outside urban areas are able to access family protection remedies despite the Family Protection Act allowing for remote filing of protection order cases to increase access.

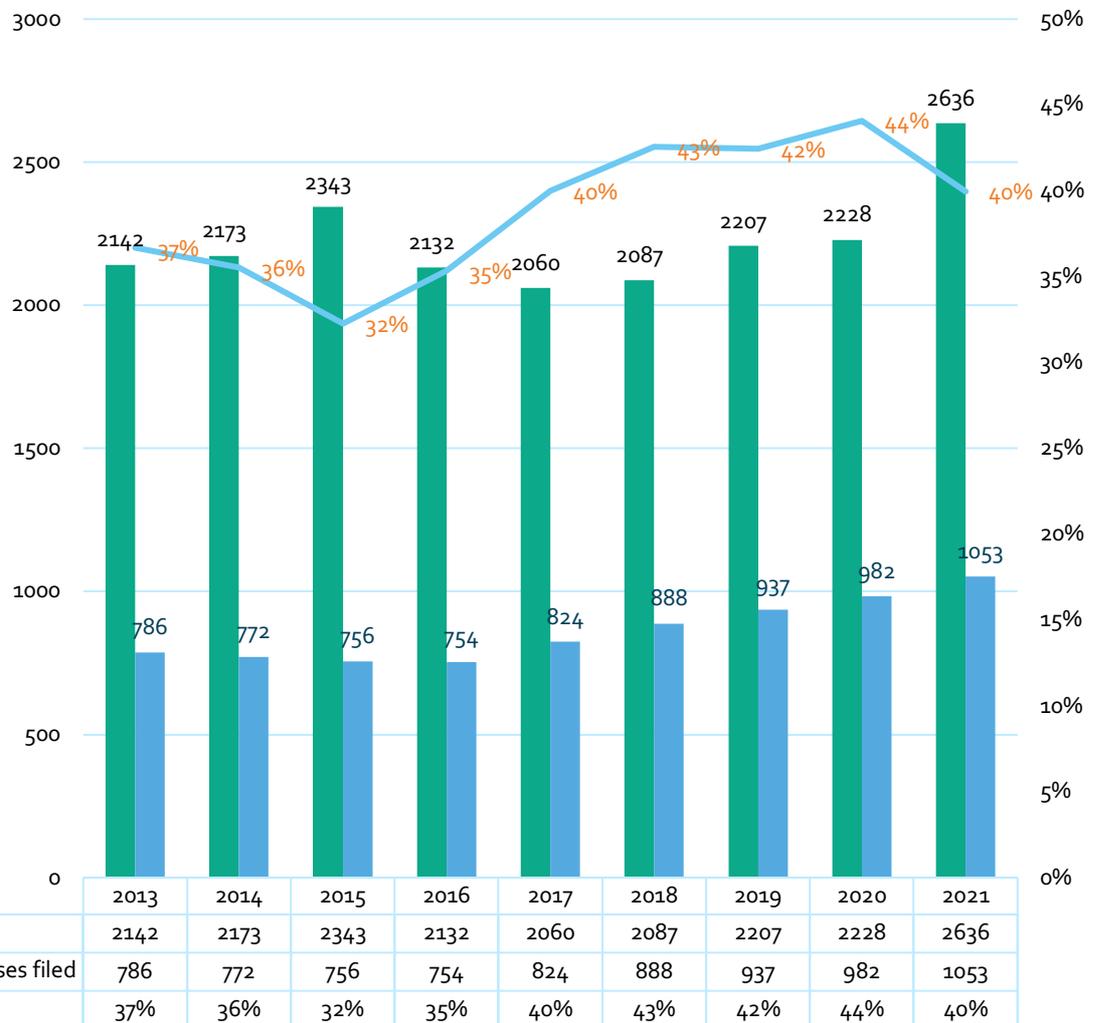


Indicator 3:

Protection order cases as a percentage of total cases filed in the Magistrates Court

In 2021, protection order cases represented 40% of all cases filed in the Magistrates Court, making it the single largest case type filed in the Magistrates Court.

This shows that there is a high demand for family protection remedies from women in Vanuatu and why continually reviewing how the Magistrates Court can improve its services will benefit large numbers of clients.



Source: Vanuatu Courts: Court of Appeal, Supreme Court, Magistrates Court, Island: 2021 – A Reflection

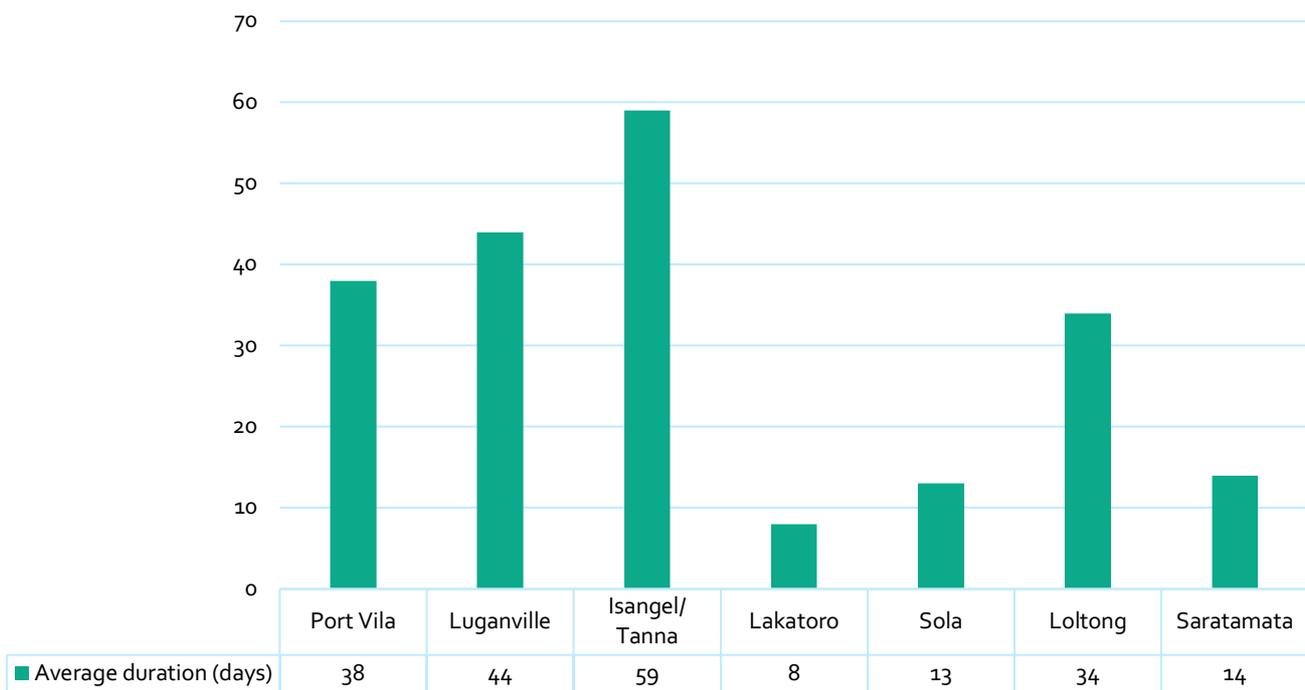
Indicator 4:

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

In 2021, the average duration of a protection order case ranged from 59 days (Isangel) to 8 days (Lakatoro).

This data is important to understand what proportion of interim protection orders are being heard on the same day, as required by law (s31) and how long final protection orders take to understand if these cases are being prioritised by the court as required by law (s18).

The case management system does not currently present data on interim and final protection orders filed and finalised and so it is not possible to evaluate if the courts are following the timeframes for hearing interim protection orders (s31) and final protection order cases (s18).



Source: Data Provided by Vanuatu Courts

Indicator 5:

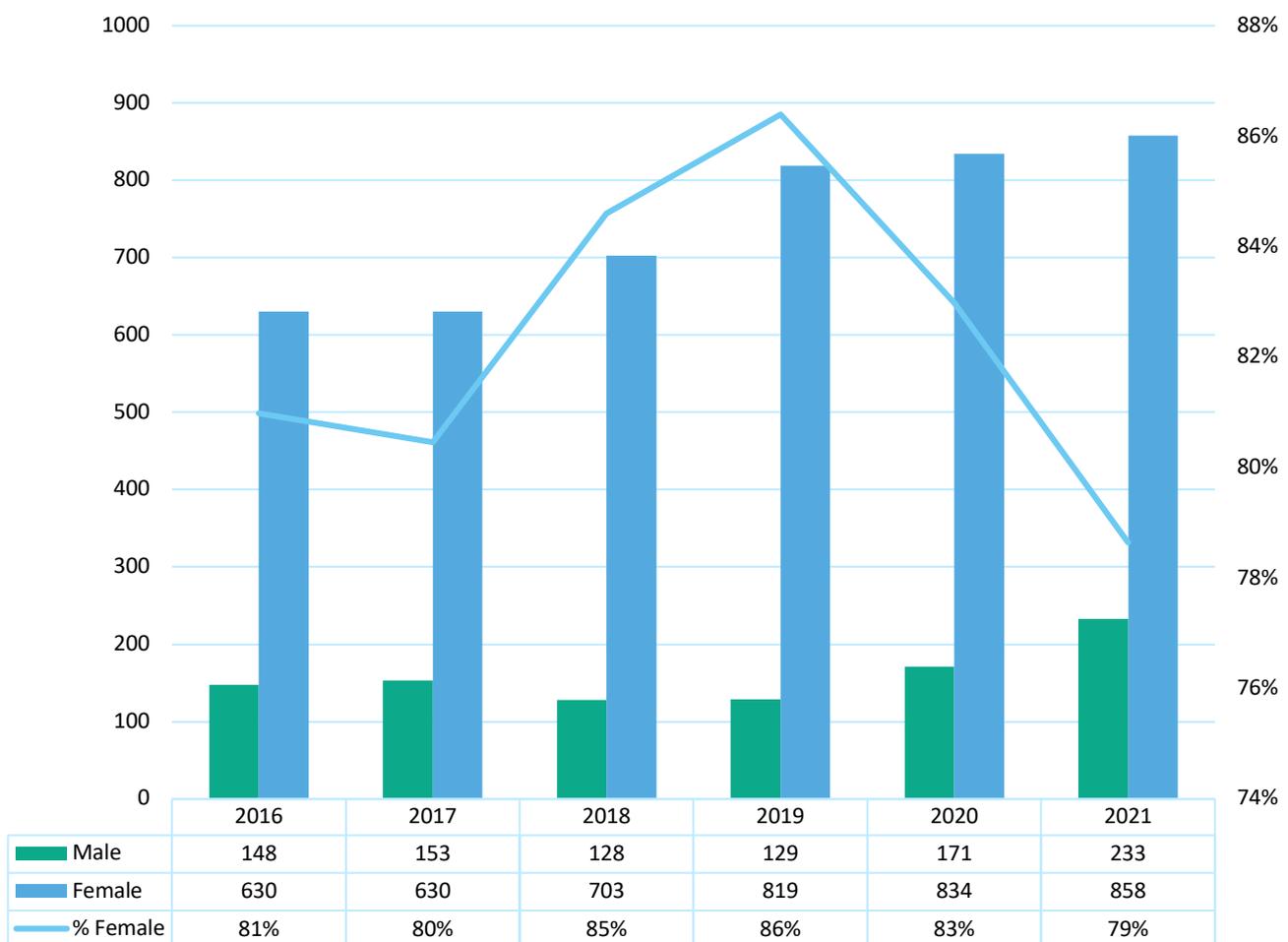
Sex/ gender disaggregated data for the applicant and respondent in protection order cases

In 2021:

- 79% of applicants in protection order cases were female, and
- 82% of respondents in protection order cases were male

An examination of the trend data reveals a recent decrease in the proportion of applicants that are women in protection order cases. This is because the number of male applicants in protection order cases has almost doubled in the last three years from 129 male applicants in 2019 to 233 male applicants to 2021.

This data is important to understand who is bringing protection order cases to the courts and whether this is changing over time.



Source: Vanuatu Courts: Court of Appeal, Supreme Court, Magistrates Court, Island: 2021 – A Reflection

Indicator 6:

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

This data is not currently available in relation to court services.

The Vanuatu Statistics Agency website includes information on how data on the prevalence of disability has been collected since ratification of the Convention on the Rights of People with a Disability in 2008.

In 2020, the Vanuatu Statistics Agency adopted the 6 Washington Group Short Set questions in their census.

These questions could be adapted for use in court forms and would enable the courts to better assist people with a disability when they seek to access the courts in Vanuatu.

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

Indicator 7:

Number of protection order cases - relationship between the applicant and respondent

This data is not currently presented in the Vanuatu Annual Report.

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

Indicator 8:

Number of applicants who were assisted with the preparation of their protection order case and who assisted: Women's Centre/ Police family protection unit/ Authorised persons/ Public solicitor/ private lawyer/ court staff

This data is not currently presented in the Vanuatu Annual Report.

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.

An example of how another Pacific Court presents this data can be seen in the 2020-2021 Tonga Court Annual Report and, shows the important contribution of the Family Prevention Legal Aid Centre (FPLAC):

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 applicants for protection orders, 79% 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)

Indicator 9: Outcomes in protection order cases

The current case management system data shows that 78% of protection order applications in 2021 are granted, 16% are not granted and 6% are withdrawn.

The Vanuatu case management system data does not currently present data on outcomes which distinguish between interim and final protection order cases. Nor does it show what conditions are included in the protection order.

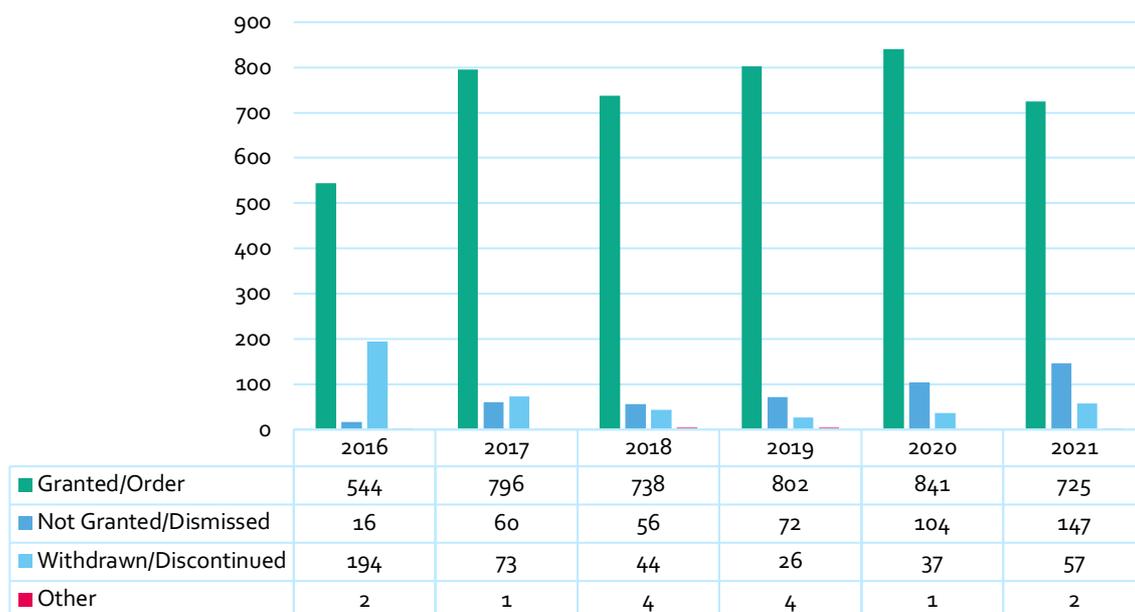
Publishing data on the outcomes of protection order applications is important to understand whether applicants are only receiving emergency short-term protection orders or whether these are being translated into final orders that provide longer-term protection.

Outcomes data should also include information on the percentage of cases that include conditions related to:

- Contact
- Custody of children
- Maintenance
- Sole occupancy of the residence

This data is important in order to show what types of support applicants are receiving as part of the final protection orders.

Magistrates Court Protection Order Cases: Outcomes



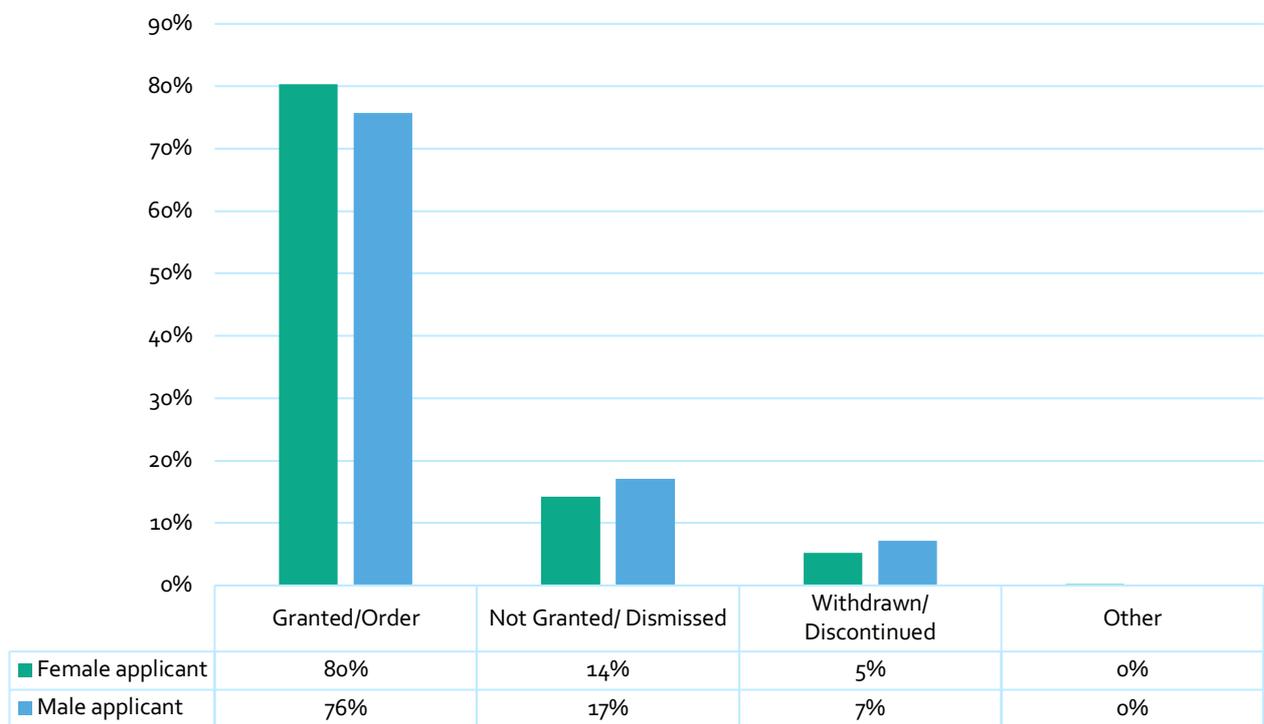
Source: Data Provided by Vanuatu Courts

Indicator 9:

Outcomes in protection order cases (by gender)

In 2021, there were similar outcomes for male and female applicants in the protection order cases that were finalised.

Outcome of protection order cases 2021 by gender



Source: Data Provided by Vanuatu Courts

Indicator 10:

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

The Vanuatu Family Protection Act provides for an application to be made: (i) orally; (ii) by telephone, radio or other similar facility; (iii) in writing; or (iv) or by facsimile, telex or email [s 28]

This data is not currently presented in the Vanuatu Annual Report.

This data is important as it shows whether courts have set in place procedures for phone or other remote means of filing and hearing of Family Protection Act cases due to the need to provide rapid protection to applicants.

During the COVID pandemic, many courts have issued regulations on ways that courts can use phone or other forms of technology for the remote filing and hearing of cases.

Indicator 11:

Number of protection order cases heard remotely (Authorised Person/phone/ other remote hearing/ circuit court)

The Vanuatu Family Protection Act provides for the hearing of protection order cases by Authorised Persons and for the temporary protection order to be communicated to the defendant by phone (ss 17 and 36).

This data is not currently presented in the Vanuatu Annual Report.

Indicator 12:

Number of FPA criminal cases or other criminal offences that involve a family member.

Family Protection Acts outline domestic violence criminal offences including breaches of conditions in protection orders.

Criminal offences filed under Crimes Acts/ Penal Codes may also involve a family member and a data field specifying any relationship between the parties will capture whether these criminal cases have a family violence dimension.

This data is not currently presented in the Vanuatu Annual Report.



Vanuatu Court User Survey 2021

Background to 2021 Court User Survey

In its Judicial Management Improvement Plan 2021, the Vanuatu Judiciary committed to undertake a court user survey.

During 2021, the Vanuatu judiciary worked with the PJSI Accountability Adviser to develop:

- A survey instrument for the Magistrates Court that would have a focus on protection order cases
- A survey instrument for the Supreme Court
- A planning guide for conducting the court user surveys

Methodology

The court user surveys were conducted between 15 -26 November, 2021 targeting 4 different islands in 6 different locations.

The court user survey was undertaken at the following locations:

- Port Vila – 3 different sites (Supreme Court Registry, Supreme Court hearing rooms, Magistrates Court Registry)
- Santo – 1 site Magistrates Court Registry
- Malekula – 1 site Magistrates Court Registry
- Tanna – 1 site Magistrates Court Registry

The Vanuatu judiciary collaborated with University of the South Pacific students to assist with the survey at each location.

The university students asked potential survey respondents the following question to ask if they would participate in the court user survey:

We would like to learn from your recent experience with the Vanuatu Justice System. We will do this on a confidential basis and not store your name. The survey will take 15 minutes to complete. Would you be willing to answer some questions on your experience with the Vanuatu Justice System?

A second survey was undertaken that collected data on client's experience of bringing family law cases to court. Where this survey data is relevant, it is presented separately.

The Vanuatu Judiciary uploaded 90 surveys onto the Survey Monkey database with survey responses identified as being relevant to protection order cases.

Of these, there were 63 complete survey responses:

- 42 responses are from Luganville
- 10 from Port Vila
- 6 from Lenakel
- 5 from Lakatoro

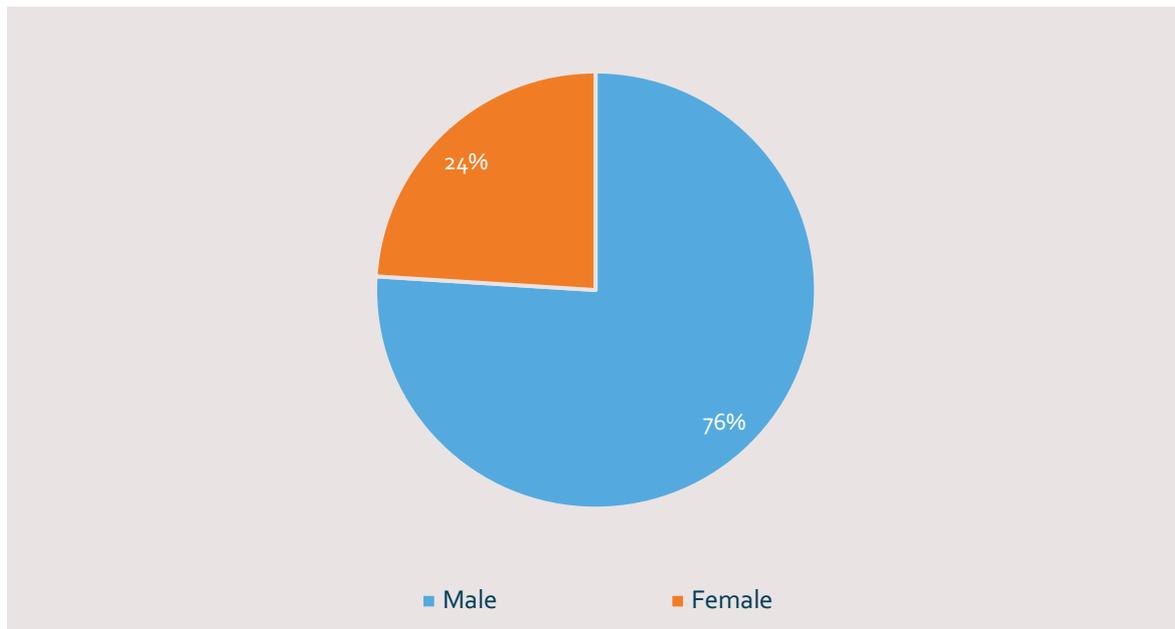
There were also 39 survey responses which have been identified as being relevant to family law cases. Given the recognised relationship between family law cases and domestic violence cases, the responses relevant to family law cases have been analysed where relevant.

Gender of applicants

76% of respondents to the survey were male, whilst only 23% were female.

This is the reverse of what the Court case management system shows for applicants in family protection cases.

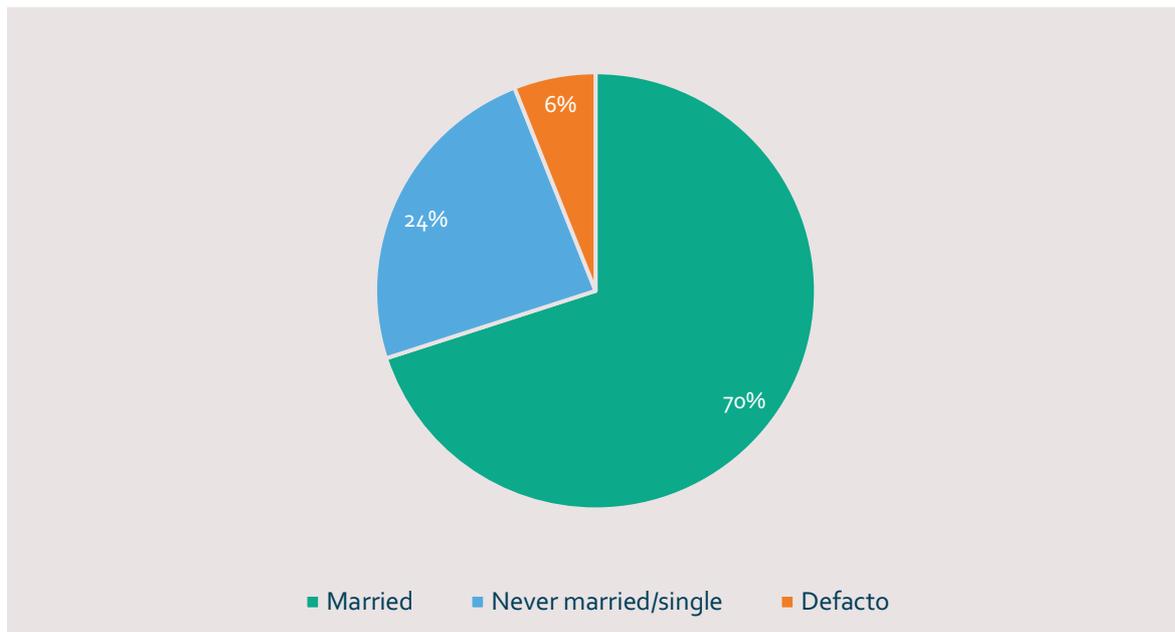
Before undertaking the next survey, the court indicated it will review the training provided to enumerators to ensure that they approach an equal number of women and men and record if they chose to participate in the survey or not.



Marital status and children

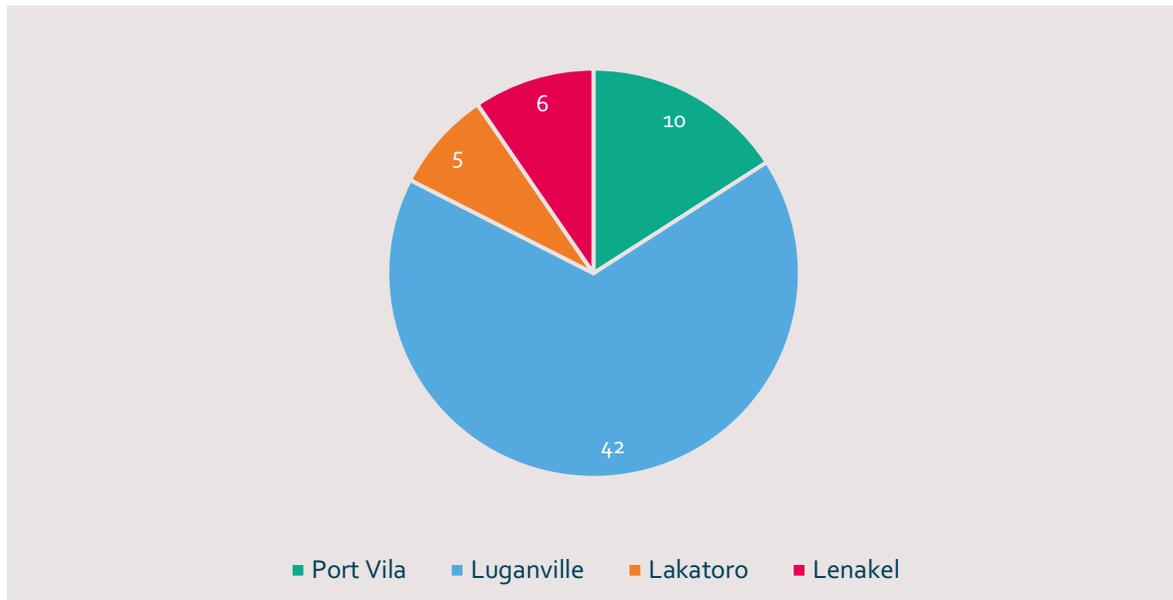
The majority of survey respondents were married or in a defacto relationship (76%).

86% of respondents had children.

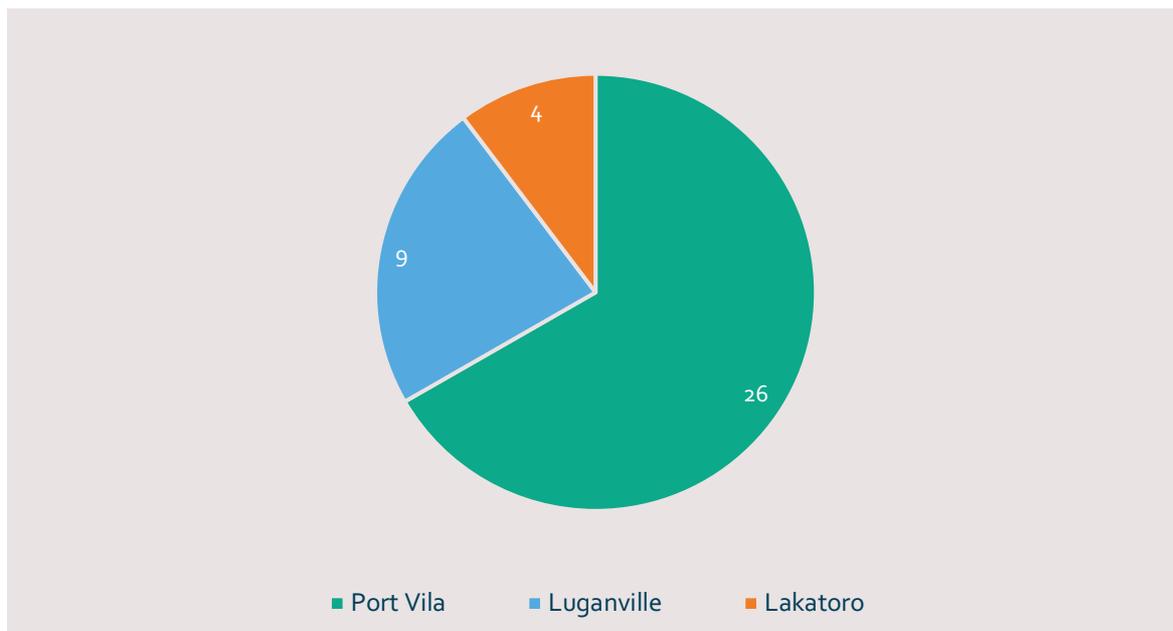


Registries where respondents were surveyed

The majority of protection order respondents were surveyed at Luganville (42), whilst a small number were surveyed at each of Port Vila (10), Lakatoro (5) and Lenakel (6).



Of the 39 respondents who attended court for family matters, the majority were surveyed at Port Vila (26), and smaller numbers were surveyed at Luganville (9) and Lakatoro (4).

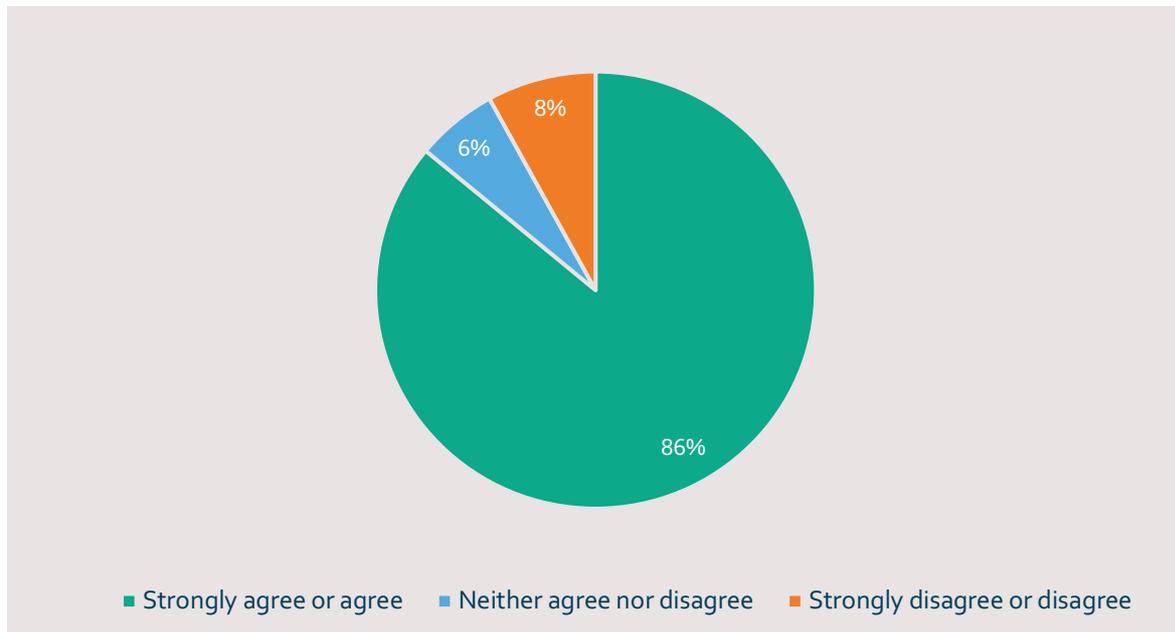




Responses to survey questions

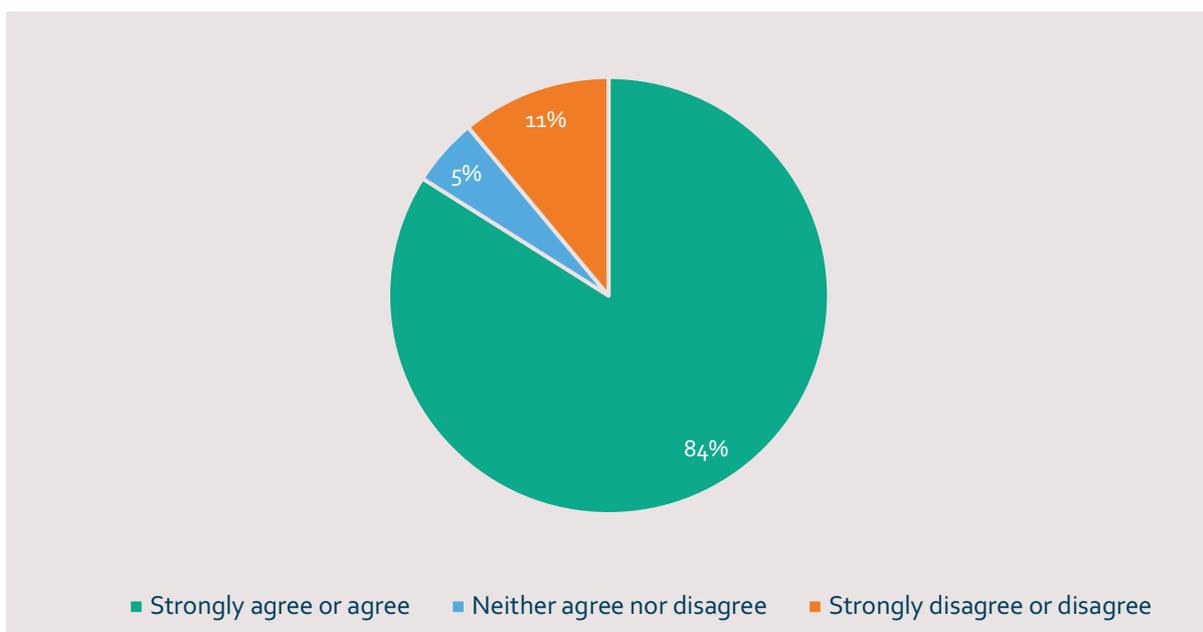
Finding the courthouse was easy

More than eight out of ten respondents found it easy to find the courthouse.



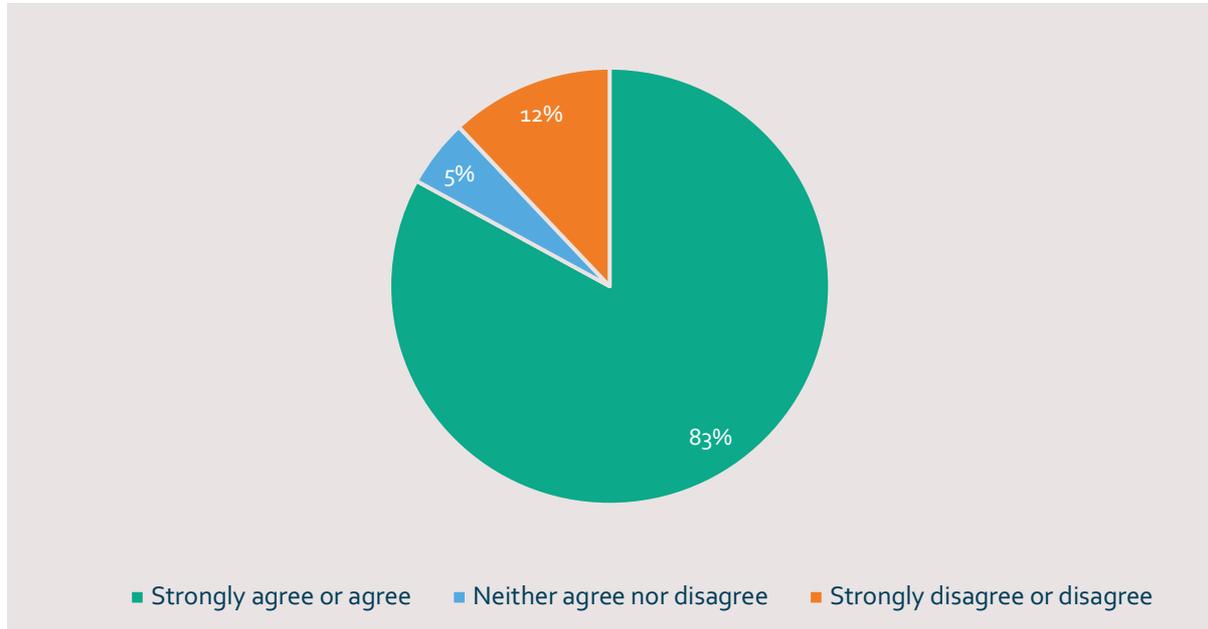
The forms I needed were clear and easy to understand

More than eight out of ten respondents found the forms they needed to be clear and easy to understand.



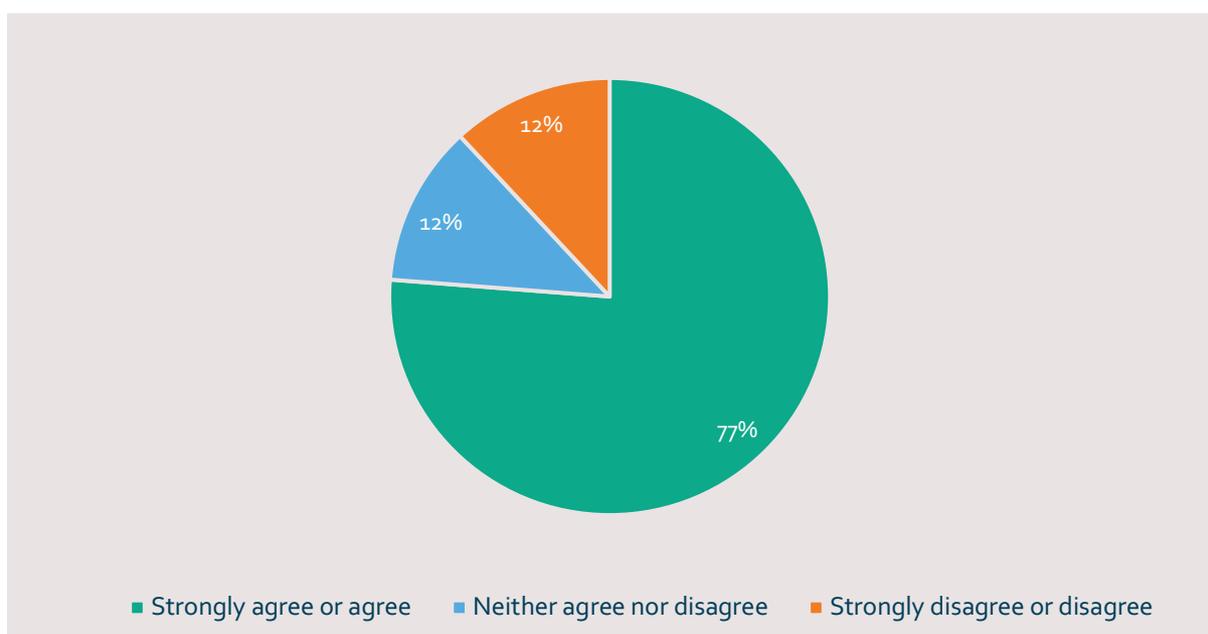
I felt safe in the courthouse

More than eight out of ten respondents felt safe in the courthouse. **Note:** 76% of respondents to the survey were male.



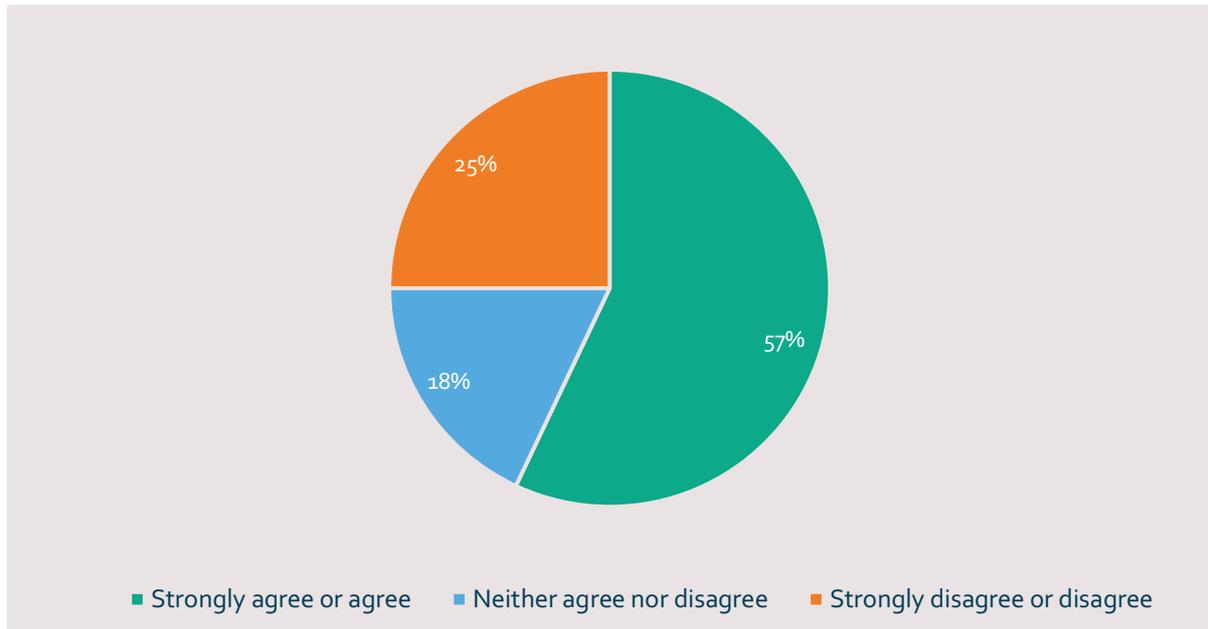
The court makes reasonable efforts to remove physical and language barriers to service

More than three out of four respondents strongly agree or agreed that the court makes reasonable efforts to remove physical and language barriers to service.

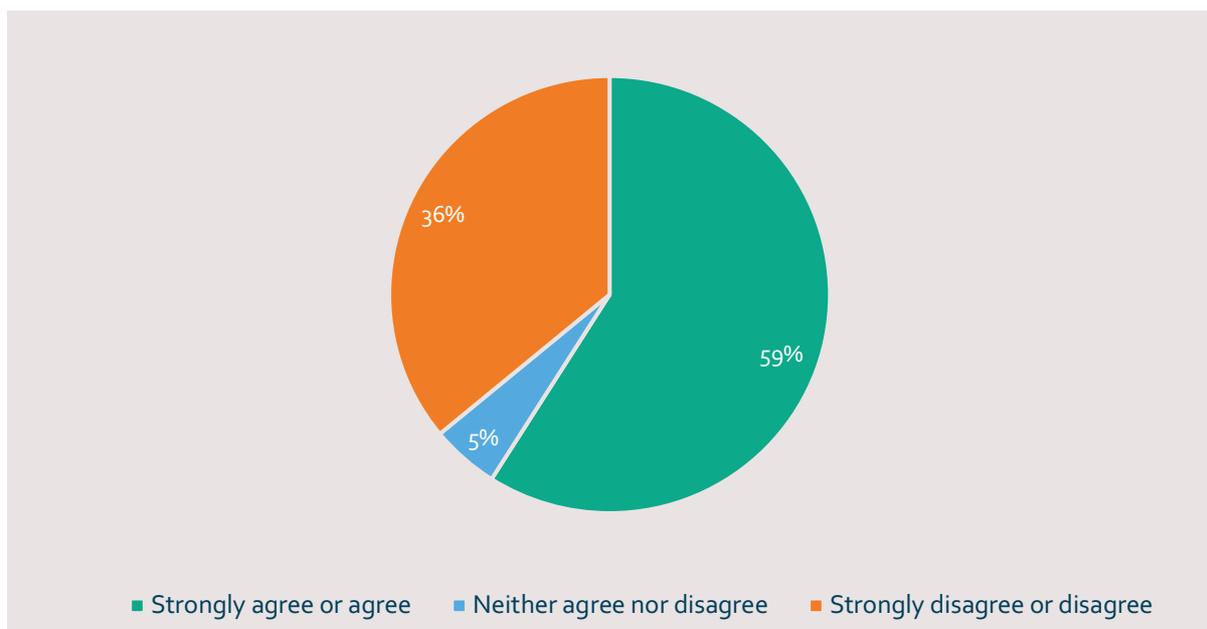


I was able to get my court business done in a reasonable time

Protection order cases: A quarter of respondents **did NOT think** their protection order cases were done in a reasonable time.

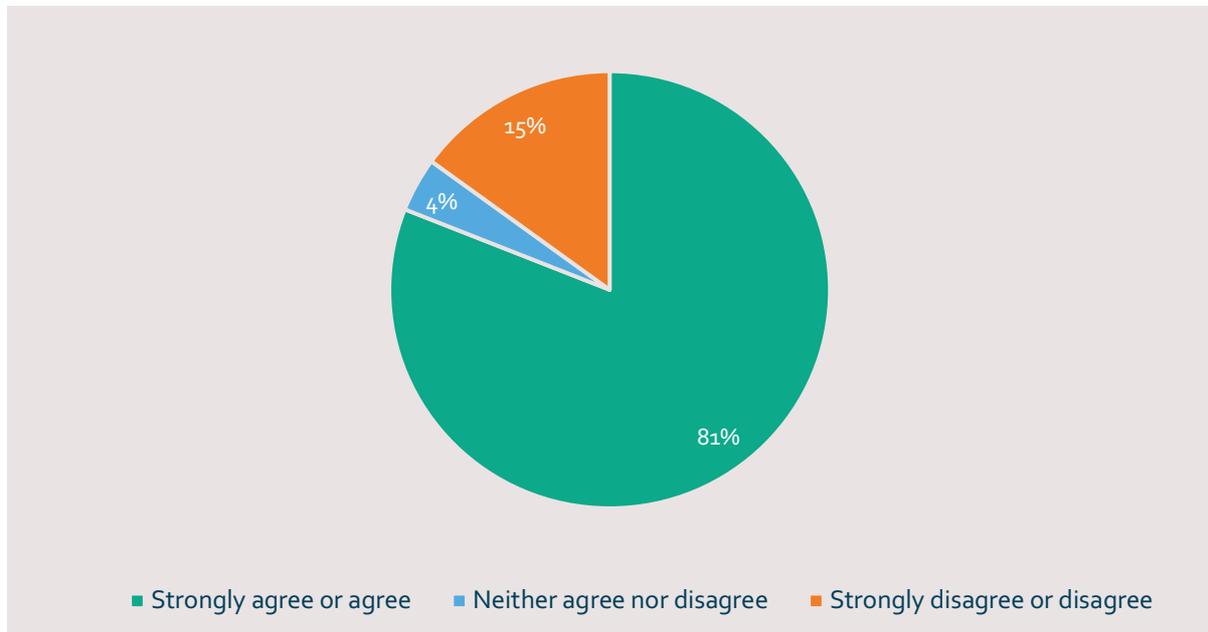


Family Law Cases: Over a third of respondents **did NOT think** their family law cases were done in a reasonable time.



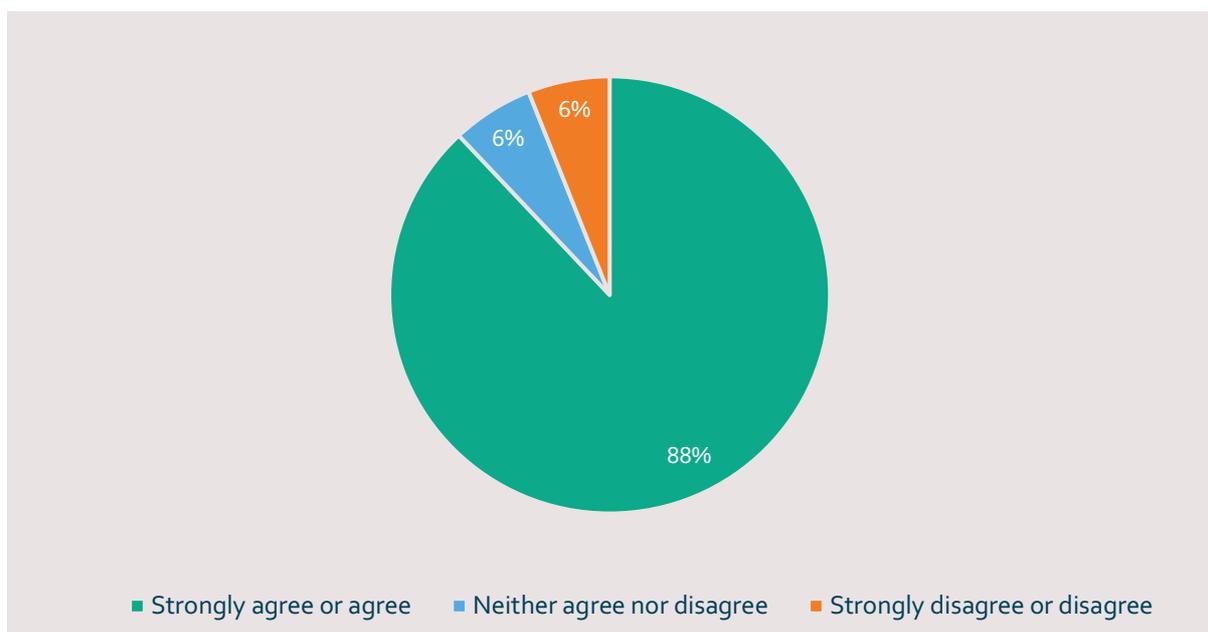
Court staff provided clear information on the court process for my case

More than eight out of ten respondents strongly agreed or agreed that court staff provided clear information on the court process for their case.



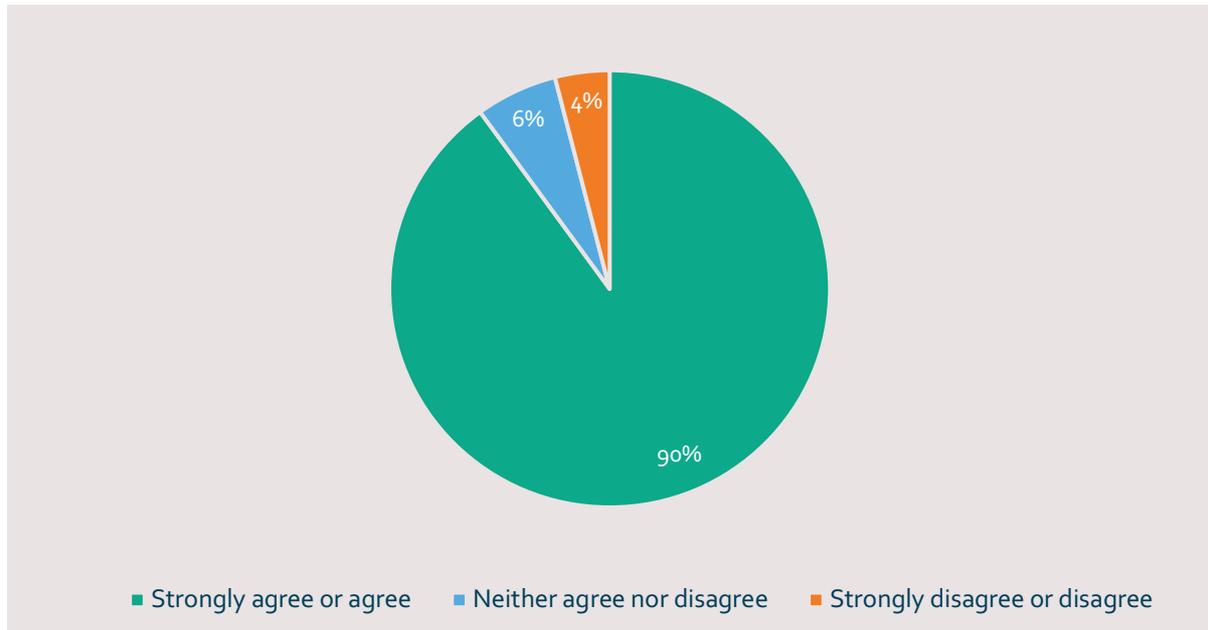
I was treated with courtesy and respect by court staff

Nearly nine out of ten respondents strongly agreed or agreed that they were treated with courtesy and respect by court staff.



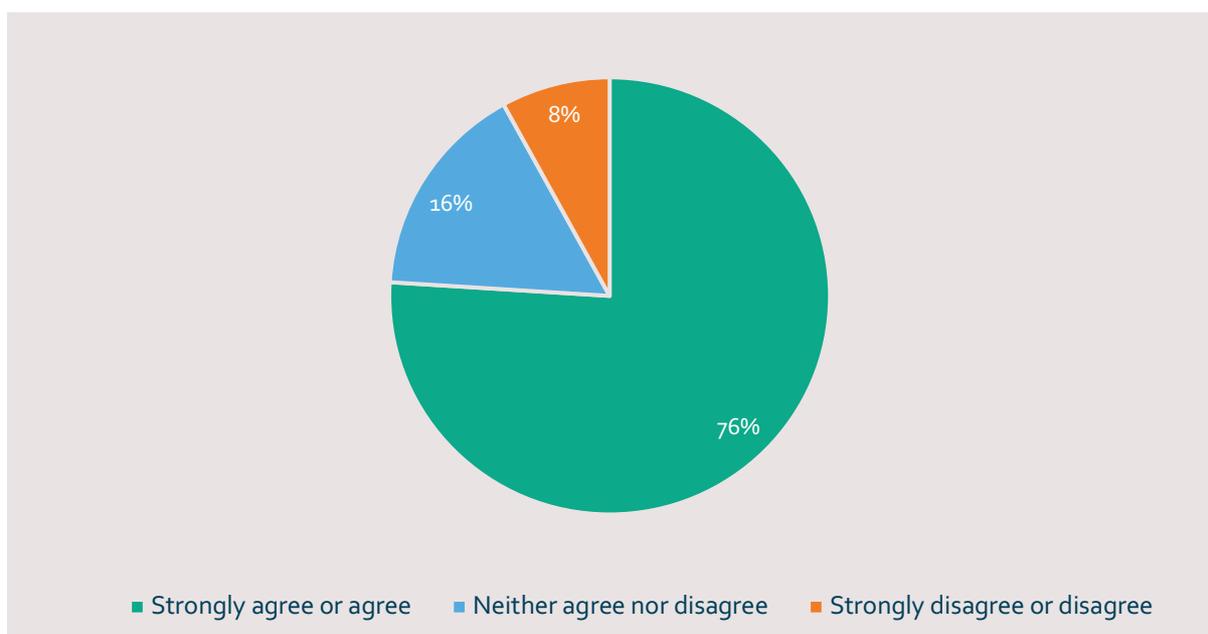
I was treated with courtesy and respect by the magistrate/judicial officers

Nine out of ten respondents strongly agreed or agreed that they were treated with courtesy and respect by the magistrate.



The way my case was handled was fair

Approximately three out of every four respondents strongly agreed or agreed that their case was handled fairly.



Is there anything that the courts could do to make your experience better?

Protection order cases: Majority of respondents (82%) did not think there was anything the Courts could do to make their experience better.

However, 42% of female respondents thought that there was something the courts could do to make their experience better.

The feedback in protection order cases related to:

- timeliness; and
- safety concerns.

One respondent said that the Court should 'speed the process of hearing rather than adjournments', and another said that 'the courthouse is too open need to have a small and secure and safe place for such case as mine.' The safety-related suggestions came from female respondents.

Note: the number of female survey respondents was low and will be addressed in the next court user survey.

Court User Survey lessons learned

As a result of conducting this first Court User Survey, the Vanuatu judiciary will focus on the training of people conducting the next survey to cover:

- Distribution of respondents from each registry
- Gender balance in respondents
- Clear questions on the type of case that respondents are coming to court for
- Set up of survey to ensure that each question is answered before the respondent can move to the next question so as to obtain complete surveys.

