

Interview with the Honorable Chief Justice Sir Gibbs Salika -Chief Justice of Papua New Guinea

By

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An overview of the Judiciary of Papua New Guinea (PNG)

Unlike several Pacific Island Countries (PICs), Papua New Guinea (PNG) is bestowed with remarkable diversity and natural resources. PNG occupies half of New Guinea, together with New Britain, Bougainville, New Ireland and 600 smaller islands (The World Bank, 2021). There are two main sectors of the economy, and these are agriculture and mineral extraction. Tribal and ethnic identity plays a complex role in PNG's ethnic identity. PNG's economy's growth is constrained by a lack of employment opportunities, political fragmentation, and population growth (The World Bank, 2021). The parliamentary representative democratic multiparty system governs the politics of PNG. As far as the Oceania is concerned, there are a number of conflicts that have occurred since the World War II (Saffu, 1992). Out of all these conflicts, the Bougainville Civil War, also known as the secessionist revolts in Bougainville, was a multi-layered armed conflict that took place between 1988 to 1998. Approximately, 15000 to 20000 Bougainvilleans died during this conflict (Saffu, 1992).

The constitution of PNG provides the primary basis for the judicial system that is based on the Supreme Courts, the National Courts, District Courts and Village Courts (University of

Melbourne, 2020; The World Guide, 2020). The independent states of the PNG extend from the Bismarck Archipelago east to Bougainville, and these comprise the large and small island provinces. Importantly, the contemporary legal system of PNG, after it gained its independence from the Australian Rule, is based on the mix of both customary and common law. As far as the sources of law are concerned, there are three common sources of law. These are the written law, common law and customary law. The written law is stipulated in section 9 of the constitution, while the common and customary laws are stipulated in section 3(1) of the Underlying Law Act 2000 (University of Melbourne, 2020). The sources of the laws that form the primary basis for the judiciary of PNG are (1) constitution, (2) organic laws, (3) acts of parliament, (4) emergency regulations which include the provincial laws, (5) subordinate legislative enactments and (6) Underlying Law Act 2000 (University of Melbourne, 2020).

The Underlying Law Act 2000 are the non-codified sources of law that determines the legal system of PNG (University of Melbourne, 2020). The primary basis of the Underlying Law Act of 2000 is the customary law and common laws. The customary laws of PNG are mainly based on the customs of PNG. In contrast, the English common law was enforced immediately before Independence Day (September 16, 1975) (University of Melbourne, 2020). The customary laws of PNG are included in the constitution schedule 1.2.2(1), and it also forms the basic premise of the Underlying Law Act. The main objective of the customary law is to define the customs of PNG (University of Melbourne, 2020). The customs of PNG are defined as the customs of indigenous habitats of the country where the matter arises. As far as the Underlying Law Act is concerned, there is always precedence given to the customary laws over the common law (University of Melbourne, 2020).

Furthermore, due to the changing nature of the international crimes, it is very easy for judgements in foreign courts to be recognized as applicable to the context of PNG and applied in PNG by undertaking a full registration process. This Act establishes reciprocity in recognition of the foreign judgements from courts in Australia, the United Kingdom, New Zealand and the United States of America (USA). One of the main advantages of adopting the common law of England as part of the underlying law of PNG is that it enables the juridical system to enforce foreign judgments (University of Melbourne, 2020).

Supreme Courts

The Supreme Court of PNG is the highest appeal court in PNG since September 16, 1975. This Supreme Court replaced the pre-independence Supreme Courts and the overseas appellate tribunals between 1902 to 1975 (National and Supreme Courts of PNG, 2020). The overseas appellate tribunals were part of the High Court of Australia and the Judicial Committee of the Privy Council. Importantly, the Supreme Court of PNG was appointed as the superior court of record as per Papua New Guinea's Constitution (National and Supreme Courts of PNG, 2020). The court of PNG was comprised of the Chief Justice of Papua New Guinea, judges of the National Court and the Deputy Chief Justice. The Supreme Court of PNG is the superior court of record as per the PNG's constitution. Generally, the Supreme Court is an appellate committee of the National Court of PNG (National and Supreme Courts of PNG, 2020). One of the main responsibilities of the Supreme Court of PNG is to develop the underlying law, particularly the common law of PNG. The development of customary law is one of the important components of the underlying law (Business Advantage PNG, 2020).

National Courts

The National Court of PNG has limited original jurisdiction for the constitutional matters and unlimited original jurisdiction for the criminal and civil matters. The National Court also handles appeals from the district and local courts and administrative tribunals (National and Supreme Courts of PNG, 2020). There are only matters that involve civil actions up to K10,000 are brought to the National Courts. One of the main reasons behind this is that the legal costs associated with bringing up the issues at the National Courts can be very high and this is one of the main reasons why cases may not reach up to the National Courts (National and Supreme Courts of PNG, 2020).

District Courts

The district courts in PNG usually have one or more magistrates. These courts are established by their own authority from the parliament under section 172(1) of the constitution. The jurisdictions of these courts are both within the criminal and civil realms (Paclii, 2020).

Village Courts

The Village Courts in PNG are established as part of the constitution and the Village Courts Act. It is most likely that the matters involving the customary law claims are most likely to arise at the Village Court Level (Paclii, 2020). As far as the constitution is concerned, it adopts the customs as part of the underlying laws and these customary law arguments can also be raised in the other courts in PNG. The village courts have always played a significant role in strengthening the justice system of PNG, and it increases the accessibility of the judicial system to a significant portion of the population. These courts of PNG are located in outlying rural areas, and they are also located in cities and settlements (Paclii, 2020).

Introduction

The judicial system of PNG has faced numerous challenges since its independence around 40 years ago. Undoubtedly, these challenges have adverse implications on the turnover of cases, but the judiciary of PNG has not ignored its responsibility to administer a fair, transparent, accountable and unbiased justice system (Oxford Business Group, 2020). The Chief Justice of PNG, Sir Gibbs Salika has spent around 40 years in the judicial system of PNG, and his philosophical sentiments and legal practices are influenced by his experience, understanding of the local culture, regionalism and international developments in law practice. Personally, he shares the opinion that the judiciary plays an important role in ensuring that the Rule of law protects everyone in society and societal freedom is observed in creating a balanced society. The Chief Justice is extremely busy with his professional work, and he ensures that he finds time for church activities. Sir Gibbs Salika was selected for the in-depth interviews as he is the longest-serving judge in the National and Supreme Court of PNG. He has a thorough understanding of the evolution of the judiciary system of PNG, and by interviewing him, we managed to gather in-depth knowledge and understanding of the role of judges in maintaining a stable judiciary system of PNG. Sir Gibbs Salika provided us with a wider understanding of the growth in transactional crime as a result of technological innovation and globalization in PNG.

Autobiographical Details:

Sir Gibbs Salika was appointed as the Chief Justice of Papua New Guinea in November 2018. He is a local from PNG whose birthplace is Western Province of PNG. His hometown is Daru that is located across the gulf of PNG. He took over this position from Sir Salamo Injia, who had served for approximately ten years. He was appointed as the Chief Justice of PNG based on his ability to

provide strong independence and vitality to the judiciary system of PNG. According to the Hon. Peter O'Neill, who was the Prime Minister of PNG during his appointment, he mentioned that one of the main roles of the Chief Justice in PNG is to maintain a strong and unified governance system during civil unrest and political crisis. In such situations, the Chief Justice has to make complex and challenging decisions. The Prime Minister of PNG mentioned that he strongly believes that Sir Salika possesses the skills and capabilities to make such decisions. Sir Salika completed his primary and secondary education in PNG. He completed his Bachelor of Law Degree from the University of PNG in 1978. He has worked for 40 years in the judiciary system of PNG. He has made valuable contributions to the Office of the Public Prosecutor, Ombudsman Commission, and he is one of the longest-serving judges in the National and Supreme Court of PNG.

The Interview

The interviews with the Chief Justice Sir Gibbs Salika was conducted on September 22, 2020, from 1 pm to 3:12 pm Fiji Time. This face-to-face interview was facilitated by the zoom video conferencing software. All the participants in the interviews joined this meeting from their office by using the zoom software. Chief Justice Sir Gibbs Salika has a friendly personality and was always ready to answer our question in detail. During the interviews, the Chief Justice did not appear to be busy and was fully attentive to the interview questions. His ability to thoroughly answer each question demonstrated his understanding of the legal system and his respect for his work. He recognizes the efforts of the former Chief Justice in improving the legal system of PNG. Although he is very busy with his work, he still finds time for his church-related activities. His career as a judge has been rewarding to him, and he wishes to take the judicial system of PNG to greater heights by implementing processes and procedures that improve the turnover of cases and enhances staff morale in the judiciary of PNG.

Family Background: The Chief Justice Sir Gibbs Salika was born on August 11, 1955. His hometown is Daru that is located across the gulf of PNG. He has spent around 40 years in the judicial system of PNG. Currently, he is the longest-serving judge in PNG. Although the Chief Justice is very busy with his work, he still finds time for his church-related activities. He is a Seventh Day Adventist. In recognition of his excellent contribution towards developing the legal system of PNG, he was honoured as the Knight Commander of the Order of the British Empire by Queen Elizabeth II.

Social Background: The Chief Justice Sir Gibbs Salika is a Seventh Day Adventist and believes in the basic principles of Protestant Christianity, which includes acceptance of the supreme authority of the bible and the existence of sin and salvation. He is a technology savvy individual who believes in staying connected to the rest of the world by using social media sites, such as, LinkedIn. His LinkedIn profile provides a full overview of his background and education. Chief Justice Sir Gibbs Salika is always busy with his work and hardly finds time for social work but finds it easier to connect with friends by using social media. He completed his primary school in PNG and his parents are local Papuans.

Why the interviewee chose to be a judge? Chief Justice Sir Gibbs Salika chose to be a judge due to personal and professional reasons. He finds the area of study in law and legal development interesting and intriguing. Additionally, he finds the practice of law fascinating and challenging as each case has unique aspects on this own. He feels that it is fun and challenging to be making decisions on tricky cases. Generally, he finds the working conditions of the judges in PNG reasonably fair, and he wishes to take the judicial system of PNG to greater heights.

The joys and frustrations experienced in their judicial role: Although the career of judging is challenging and interesting, a judge has to face a number of hiccups in his or her career. A judge's decision on a case can lead to public outcry whereby the public questions why the legal system is not operating the way it should operate. Judges should be ready to tackle these problems during their career.

Section 1: Career

AP/SN: Tell us a little bit about your career (try and include here the length of service as a judge, organizations worked in, movements, specializations, etc.)

GS: As far as my professional training is concerned, I got my law degree from the University of Papua New Guinea. I studied there from 1975 to 1978, graduating in early February of 1979. My practical legal training lasted for ten months, and after that, I got admitted to the bar. Once you get admitted to the bar, you can work for a private law firm or government institution. As soon as I got admission to the bar in late 1979, I got employed by the National Court of PNG. I was practising law at the Office of the Public Prosecutor, whereby I was the state prosecutor. In my six years of career as a State Prosecutor, I was in the prosecuting counsel for the state in the national court. I also served as the Constitutional Law Advisor at the Ombudsman Commission for two years after which I was appointed as the magistrate for two years. After completing my short-term service as the magistrate, I got appointed as the PNG bencher, and I acted in this position for six months. I got confirmed as the judge on the first of 1990, and I have been serving my country as a judge since 1990 to the present time. I am also involved in church activities as part of my extra-curricular activities. My speciality is in criminal law. During my career, I taught myself to deal with the criminal law in the capacity of a lawyer and how to handle civil cases or civil work (torts, contract and civil law) in the capacity of a magistrate. A magistrate is elected to maintain law and

order in a particular region. In order to accomplish this task, I had to reach myself how to handle civil cases.

AP/SN: As your career as a judge has developed what has surprised you?

GS: I thought to be a judge, it was going to be easy, but it is not easy. I had to self-teach myself all the work in the capacity of a lawyer and judge as soon as I started working. During my work as a judge, I realized that I needed to do more in my writing of my decisions to cater for different situations. Numerous issues are raised during the trials. When I started my career, I was able to answer some of these issues, and there were some that I was not able to answer. After handling these issues over a period of time, I became more and more experienced as a judge. As soon as you gain experience, you are alerted as to what the issues are and what you can do to address these issues while you are writing the decision. I thought that this was going to be an easy task, but it is not.

AP/SN: Has your work as a judge proved as interesting or rewarding as you thought it would when you first started?

GS: As I had initially thought, the work of a judge has proven to be interesting and rewarding. Over my last 30 years of judging, I have seen drastic improvements in the judicial system. Although there is a bit of hiccup on the way, my career has met my expectations. The employment conditions of judges in PNG and other Pacific Island Countries (PICs) are fair and satisfactory. Most of the Chief Justice's in the PICs interact and share our experiences, and if we feel that there are certain areas where the government needs to improve, we will definitely take it up to the government. I have come over a lot of interesting things in my career as a judge. I think in a lot of high-profile cases, it is challenging and fun to be interpreting laws and assessing many different types of submissions that are put before you. These cases may be political or constitutional. Over

the years as you mature as a judge, there would be numerous cases coming before you, and all these cases will be interesting.

Section 2: Personal Judicial Philosophy

AP/SN: What do you think should be the role of the judiciary in society?

GS: Well, as I have said that the common role of the judiciary is that it is the third arm of the government in the democracy that we have chosen to be. Since we are the third arm of the government, our official role is to interpret the laws of the country. As the third arm of the government, we are here to make a change in the way policies are implemented, and I think that judges have a big role to play in deciding which way the policies should go to achieve fairness and justice and that the decisions are made without any fear. We play a very important role in upholding and maintenance of the Rule of law by ensuring that women and minority groups are protected, and societal freedom is observed in creating a balanced society. Family is the foundation in society as it influences the way an individual is brought up in society. Families must ensure that individuals are brought up with good societal values, and if this does not take place, then we will have problems in society. As far as the role of the judiciary during COVID-19 is concerned, we played an important role in ensuring that the state of emergency laws of the country was effectively implemented to stop illegal movements around the country.

AP/SN: What should be their job, functions and roles? What should be left to others?

GS: As I have already mentioned that we need to maintain the democratic principles of the separation of powers, particularly, the making of the law should be left to the parliament, and the role of executives is to implement policies and come up with policies so that the parliament can make new laws. However, in many instances, I think that there is a bit of overlap in their job, functions and roles. The judiciary can come up with a decision which effectively changes the

course of the law or what the law should be. Also, we do not want to play the role of playing politics in decision making. Definitely, we try to avoid many people from perceiving that our decisions are politically biased, but people are entitled to have opinions. The judiciary of PNG ensures that there is balance in the way we make our decisions and that our decisions do not overstep into the functions of the legislature and executive's functions.

AP/SN: What organizational arrangements work, and which do not?

GS: The PNG is not strictly a Westminster system of government. We have a hybrid situation in PNG, where many aspects of the legal system are not following the Westminster system of government. For instance, there is a vote of no confidence in the government, and there is the presence of political fluidity as members go from one party to another. In such circumstances, it is challenging to determine the political direction of the parties. The Prime Minister under the Westminster system is first among equals. Now, I think that this is not very similar in our system of government. Although we have adopted some of the important aspects of the Westminster system of government, it does not necessarily mean that it is going to suit us. The Governor-General under the Westminster system of government has more power than the Head of State in PNG. Here in PNG, the Head of State does not have any executive powers and acts as a rubber stamp. Another organizational arrangement that does not really work in PNG is when the parliament makes an appropriation to the judiciary, it is critical that the funds are given straight to the judiciary and should not be kept by the executive. The judiciary should not be begging executives for the funds. It is critical that the judiciary's budget should be kept separate from the executive's budget.

AP/SN: What policies on relations with the community, with political groups, with other criminal justice organizations, work well? What hampers cooperation with other agencies and groups?

GS: We have a special court track that is devoted to dealing with money laundering, fraud and corruption cases. I was handling this track for some time, but upon my appointment as the Chief Justice, I passed that track to another judge. At the moment, we do not have an independent commission to fight against corruption, but draft legislation is before the parliament which will be passed in November. As judiciary, we do not participate with the empowered bodies, and the police have their own units to deal with domestic and transnational crime. The International Police Organization has been set up to curtail transnational crime, and our role comes in when the police come to us for a search warrant. There are four important agencies that work with the law and justice sector of PNG, and these are the Attorney General, Public Prosecution, Ombudsman Commission and the police. In my case, I send a management team to attend those meetings, and this team reports directly to me on the outcomes of the meetings.

AP/SN: How difficult is it for judges to relate to the living and social conditions of those from economically deprived backgrounds who appear before them?

GS: It is a very difficult proposition for a judge to consider those circumstances whereby they have to deal with people coming from an economically poor background. I know that sometimes it can break your heart and you feel for these people, but then you have to apply the law across the board. In some cases, you try to be as lenient as possible, but you have to balance your decisions with the response from the societies and communities. It is not easy to balance those, and you can't please everyone.

AP/SN: How can a judge develop empathy for those from the lower rungs of the social division in society from which they can derive a degree of understanding why that person before them did what is alleged?

GS: Yes, judges can develop empathy for those in the lower rungs of the social division. Well, it depends on how thick your skin is on the job. If you have thick skin, then this may not really apply to you, but if you do not, then you might have a lot of empathies which is not really necessary. As a result of this, when the sentences flow, there is a public outcry. People will question why the full force of the law is not taking its course. When a judge is faced with this, they inform the aggrieved parties that they have the right to appeal.

AP/SN: How should the legal system in your country be performed? What should be the preferred priorities and strategies; hard-edged crime control, prevention, services, order work, what mix for which types of problems, etc.?

GS: I think that I can say with certainty that the legal system of PNG is not perfect. There are a lot of improvements needed. Judges in PNG sit both as Supreme Court judges and National Court judges. We are both judges in the trials and appeals court. This significantly increases the workload of judges as we have to sit for three weeks as National Court judges and one week as Supreme Court judges. The application of technology to addressing priorities and strategies will help to make the work of judges much easier in completing cases related to different crime categories. Technology also ensures that the research tools are easily accessible to the judges. The availability of research technologies is a major impediment in relation to judicial work. We certainly embrace technology to be a major player in resolving some of the issues that we grapple with. At the moment, the workload of judges is not distributed equally. The number of cases a judge has to handle depends on what area the judge specializes in and the number of cases reported in that area. When I appoint a judge to handle cases in a particular area, I consider the practising background of judges in that area.

Section 3: Problems and successes experienced

AP/SN: In your experience, what policies or programs have worked well and which have not?

And can you speculate for what reasons?

GS: The judiciary has come up with many policies and procedures for the administration of the judiciary. One policy is to ensure that all the judges that are appointed have to undergo thorough orientation programs. We put the judges through two weeks of intensive training within our orientation program, and then these judges are attached to a senior judge for one to two months. These are good policies that help the lawyers to transit from lawyering to judging. We also have financial management policies and Judicial Staff Service Act. According to the policies on judicial appointments, the qualified judicial staff who meet the criteria of judges can send their expression of interest to be appointed as judges. These policies are working well at the moment. There were times when we thought that an advertisement for the judicial positions would be the way to go, but this did not go well so we reverted to the old system. We also have policies on lawyers admissions whereby lawyers are required to undergo fit and proper person test. Once the lawyers have been certified as fit and proper persons by the Attorney General, then the admitted lawyers can start their lawyering practice. Proper consultation with judges and face to face discussions on the resolution of conflicts is the way forward for the judiciary of PNG.

AP/SN: What would you consider to be the greatest problem facing the courts at this time?

GS: There are numerous problems that the judiciary of the PNG is facing. First, the lack of connectivity and information computer technology inhibits our capacity to be productive and efficient at work. We want to be connected to the cloud with very fast internet connectivity. We are struggling to recruit sufficient research officers. Currently, all judges have associates, but most of our associates are not law trained. Therefore, they are not able to do any research work. Second,

we are also facing problems related to the availability of courtrooms. There are limited physical facilities available for court cases. Third, the backlog of cases is another serious problem that we are trying to deal with at the moment. For instance, if there are 1000 cases filed in the year 2019, the ideal situation is to deal with all 1000 cases in that year. Unfortunately, this is not happening. A lot of cases, maybe 60% are completed, and 40% are carried forward from last year. We are working towards coming up with an acceptable solution to this whereby 100% of the cases that are filed in a year should be completed in that year. In addition to this, we are also working on how judges can deal with their reserve decisions. Fourth, the quality of the decisions made by the judges is dependent on the police. If they do good investigations, they the judge can be certain that a good investigation has been done and the evidence is admissible. There are numerous times when the police have not been able to undertake good investigations and produce admissible evidence. The investigators have not been properly trained to gather information, and as a result, the investigation is not full proof, or the cases have many holes. Fourth, it is difficult to keep track of who comes under the scrutiny of our judicial system. People move over a period of time, and it is difficult to keep track of where the individuals who have been charged are at any point in time. In our case, to address this problem, we issue bench warrants to arrest those people.

AP/SN: What problems in courts do you find is the most difficult to deal with?

GS: I think dealing with court cases is the most challenging part of being a judge. Dealing with civil, constitutional, commercial, and contract cases can be tricky. As for me, I have been practising in the area of criminal law cases, and for me, that is easy to handle. I think that civil cases that have their own multiplicity of proceedings come with all kinds of issues. These cases get dragged over a long period of time. A number of judges are referring the cases to mediation to speed up the number of cases that can be addressed by the judiciary.

AP/SN: What would be easy to change? Internal problems (culture of the organization, managerial deficiencies, allegations of corruption or gender-related problems, etc.) or externally generated problems (resources, community support etc)? Is anything easy?

GS: Nothing is easy to change. Human habits are very difficult to change. I think that the first aspect of work that needs to change is work ethics. Staff should be punctual to work, and they should be nice to customers. If small aspects of work are correctly undertaken, it is very easy to develop a pleasant environment for everyone at work. I also think that processes have to change, and it should be made simpler.

Section 4: Theory and Practice

AP/SN: What should be the relationship between legal theory and practice in the courtroom?

GS: I think that the practice of law is very different from what is taught to students in law schools. There should be a consistent relationship between legal theory and practice in the courtroom. The practice of law should change with the changing times. Once the Supreme Court makes a decision that changes the practice, individuals need to keep abreast with these decisions. Lawyers have already gone through the finer details of theory in law schools, but we are asking lawyers to be innovative in their practice of law.

AP/SN: What can practitioners learn from legal theory, and what legal theory builders from practitioners?

GS: Almost all lawyers know what theory is but the finer details in practice is what counts towards the practising of lawyering. Lawyers need to be innovative, critical and analytical. They should be able to analyze factual situations and make submissions. At times, lawyers present to us summons that is not worthy to be considered as it has several errors and misstatements. This involves making

submissions that are out of the context of the law. The practitioners should be able to study both the legal theory and Supreme Court judgements and make a good case for their clients. Legal theory builders should be able to critique the decisions of the Supreme Court and present multiple perspectives of their decision.

AP/SN: What is the relationship right now? Does it exist? Does it work?

GS: This relationship barely exists at the moment. We hardly see academics critically analyzing the Supreme Court judgements of PNG, and lawyers are still struggling to make good cases for their clients based on the theory and Supreme Court judgements. As I have already mentioned, we need a lot more effort from academia. We want academics to critique the Supreme Court decisions and lawyers to draw from those critiques while presenting their summons in the proceedings.

AP/SN: What holds collaboration or interactions back?

GS: The lack of availability of the research tools, information computer technology and high-speed internet is holding the collaboration and interaction between practitioners and theory builders. Lawyers need access to textbooks, journals, and research tools to prepare good cases for their clients. Theory builders and academics also need time and internet connectivity to access Supreme Court judgements via the Paclii Database. This is a database that has all the final judgement files of the cases completed in Fiji. The Chief Justices communicate with each other across the entire Pacific region in conferences and workshops. We are easily able to communicate with each other on the problems we are facing in our jurisdictions, but unfortunately, we do not have this type of network with the academics.

AP/SN: What kind of research, in what form, on what questions would you find most useful for practice? If not useful, what could or should theory builders do to make their products more useful to you?

GS: Well, as I have said that the academics need to look at Supreme Court judges critically. Academics need to think outside the box while scrutinizing the Supreme Court decisions. At the moment, I do not see much of this taking place. In a nutshell, a critical and analytical approach to assessing the Supreme Court judges not only contributes towards the theory of law but also to the practice of law. It also helps us to consider multiple perspectives that we may have not considered in your judgements.

AP/SN: Where do you find theory-based information? Where do you look? What journals, books, publications, official and case reports do you use?

GS: I mainly refer to major law books where your theory is, but in practice, we have to go to the judgements. These are the judgements of the Supreme Court. This is where the lawyers need a critical mind. They should be able to identify what the theory is saying and how their judgements differ from theory. The lawyer should be able to put up alternative options to the way the Supreme Court has handled the case.

AP/SN: Does the judiciary carry out supplementary research such as academic writing in the area of law outside the legal research with pending cases? If so, what are the areas, issues or questions of law are researched?

GS: As far as supplementary research writing is concerned; this is the matter for individual judges. For me, I consult the textbooks, and then I go to the case precedent of the Supreme Court. The decisions of the Supreme Court bound's the decision of the National Court. A similar number of judgements does not bound the Supreme Court judgements precedent. The five-member Supreme

Court makes a lot of the Supreme Court judgements. Our former Chief Justice was involved in authoring a few textbooks in the practice of criminal law. Many of us are not planning to get into that as we do not have time for that.

Section 5: Transnational Relations

AP/SN: Have you been affected by, and how, in the work of your organization by developments outside the country (human rights demands, universal codes or ethics, practical interactions with judges or justices from other countries, personal experiences outside the country, new crime threats, etc.)?

GS: Well, we do read and see on television what happens outside the country, particularly in the neighbouring countries. We also try to keep a close tab on international developments in the area of human rights, changes in international labour laws and universal codes of ethics. In case we are affected by international happenings, we try to stick to what our laws require us to do. This involves ensuring that human rights are maintained and observed by all governments. We have a few Australian judges here in PNG, and when the country was affected by COVID-19, there was a push for the Australian citizens to go back to their country. A good number of the citizens left but only a couple of them stayed back in PNG. Australians and Papuans share a colonial relationship as PNG gained its independence from Australia.

AP/SN: Have those interactions been beneficial? What kind of external international influences are beneficial and which ones less so?

GS: Our interactions with judges from overseas, particularly, from Fiji, Australia and New Zealand has been really good as interactions allow us to learn from each other. The COVID-19 has been a blessing in disguise as we are able to contact each other more often than what we were able to do before. For instance, we are able to interact with judges overseas via way of video

conferencing, and zoom. Our networking with our brother and sister judges in the Pacific is still strong. Sharing of knowledge on the judicial system of our own countries with other sister and brother judges has been helpful. However, the context of PNG is unique, and practices that may work in other countries may not be applicable in our country.

AP/SN: How have developments post the terrorist attack on the USA on September 11 2001 affected your work?

GS: Well, this happened sometime back, and it affected all of us in several ways. During the terrorist attack, a lot of security issues became a matter of concern. We started realizing that we were living in a bigger global village, and these attacks can happen to anyone. This event did affect us to some extent. We had to strengthen our boarder security and control mechanisms to protect our people.

General Assessments

AP/SN: Are you basically satisfied or dissatisfied with developments in law and legal procedure in your system?

GS: I am happy with developments in law and legal procedure in our system. We have embraced the changes to live with our current establishment. The former Chief Justice made a lot of progress to ensure that there are changes in the legal system to keep up to date with the changing times.

AP/SN: What are most likely developments you see happening and which would you like to see happening?

GS: In PNG, we are trying to implement a paperless system of filing cases, whereby people can file their complaints by using their laptops and smartphones. The e-filing system that we are trying to transit towards is cost-effective and much simpler as compared to the previous system of filing.

We are also providing training to judges to attend to their reserved decisions as soon as possible. This has been done to address the problem of backlog of cases that we are facing in PNG. We are also working towards building our new courtroom complex that will solve the problem of lack of physical facilities available to hold court proceedings.

AP/SN: What is most needed now to improve the system?

GS: At the moment, we need more physical facilities and information computer technology to help lawyers to prepare thorough summons. At the judiciary, we have implemented an integrated approach to improving the law and legal sector of PNG. For instance, if a person lays a complaint at the police station, the entire system is activated, and everybody knows what to expect. In our system, we are developing those new strategies that we think will become handy in the long run.

Conclusion

The interview with the Chief Justice of PNG was interesting and cordial as he provided a thorough overview of the current status of the judiciary of PNG. He highlighted that he is satisfied with the way the judicial system has evolved over the years and he thanked the former Chief Justices of PNG for their valuable contributions towards the development of the judicial system of PNG. The judiciary of PNG has implemented an integrated approach to addressing the complaints raised with the police. As soon as a complainant raises a complaint with the police, the whole law system is activated to address that complaint. The interview clearly highlighted that there are numerous problems faced by the judiciary of the PNG. These include lack of resources, physical facilities, skilled personnel and investigation offices, and bureaucratic rules and regulations. There are a number of policies and procedures implemented by the judiciary of PNG to address these problems. These include implementing an e-filing system, training of judges and acquisition of

new facilities for the courtroom. The Chief Justice also highlighted during the interviews that the academics should play a critical role in criticizing the Supreme Court judgements. He also mentioned that what is taught in law school is different from the practice of law.

Glossary of Terms:

Supreme Court: Is the highest appeal court in PNG that replaced the pre-independence Supreme Courts after independence.

National Court: Is responsible for handling appeals from the district courts, local courts and administrative tribunals.

District Courts: There are three different types of District Courts in PNG. These include the Coroner's Court, Juvenile Court and Land Court.

Village Courts: These are courts of statutory jurisdiction whose role is to place the administration of justice on the hands of the local communities.

Westminster System of Government: This is a type of parliamentary system that was first developed in England to combine a series of procedures for the functioning of a legislature.

Reserve Decisions: This is a legal term which means that judges are delaying the final judgement on a decision.

References

- Business Advantage PNG. (2020). '*Legal system and dispute resolution in Papua New Guinea*'. Retrieved on October 31, 2020 from <https://www.businessadvantagepng.com/legal-system-and-dispute-resolution-in-papua-new-guinea/>
- National & Supreme Courts of PNG. (2020). '*National Court*'. Retrieved on October 31, 2020 from <https://www.pngjudiciary.gov.pg/national-court>
- National & Supreme Courts of PNG. (2020). '*Supreme Court*'. Retrieved on October 31, 2020 from <https://www.pngjudiciary.gov.pg/supreme-court>.
- Oxford Business Group. (2020). '*Gibson Geroro, Associate, Leahy Lewin Nutley Sullivan Lawyers, on the significance of the judiciary*'. Retrieved on October 31, 2020 from <https://oxfordbusinessgroup.com/viewpoint/gibson-geroro-associate-leahy-lewin-nutley-sullivan-lawyers-significance-judiciary>.
- Paclii. (2020). '*Papua New Guinea - Magistrates' Manual*'. Retrieved on October 31, 2020 from <http://www.paclii.org/pg/Manuals/Magistrates/Part1Chap2.htm>
- Saffu, Y. (1992). '*The Bougainville Crisis and Politics in PNG*'. Retrieved from February 21, 2021 <https://scholarspace.manoa.hawaii.edu/bitstream/10125/8583/v4n2-325-343.pdf>
- The World Bank. (2021). '*Overview of Papua New Guinea*'. Retrieved on February 21, 2021 from <https://www.worldbank.org/en/country/png/overview>
- The World Guide. (2020). '*Courts and Cases in PNG*'. Retrieved on October 31, 2020 from <https://www.lexadin.nl/wlg/courts/nofr/oeur/lxctpng.htm>
- University of Melbourne. (2020). '*Papua New Guinea Law - Legal Research Guide: Introduction to PNG & its Legal System*'. Retrieved on October 31, 2020 from <https://unimelb.libguides.com/png>