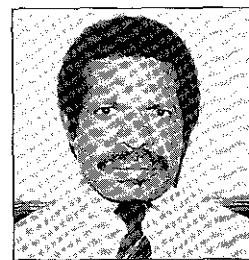


Court Libraries in Papua New Guinea



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INTRODUCTION

Although this paper is entitled "Court Libraries in Papua New Guinea" I have decided to begin by providing brief legal information about Papua New Guinea (PNG) as I feel that the majority of readers may not know anything about PNG or even where it is

BRIEF INFORMATION *

Papua New Guinea consists of the eastern half of the island of New Guinea and over 1,400 smaller islands and archipelagos, including New Britain, New Ireland and Bougainville

It lies north of Australia and shares a border in the west with the Indonesian province of Irian Jaya Its land area is 462,840 square kilometres

POPULATION & LANGUAGE

The population is more than 3.5 million They make up many distinct ethnic and cultural groups and speak over 740 different dialects. (If errors appear in my usage of English in this article, do understand that English is my 4th Language) About 75 percent of the people live in rural areas

LEGAL DEVELOPMENT

The laws that applied to pre-independence PNG from 1884-1945 were :

- German law to German New Guinea and
- British and Australian law to British New Guinea (Papua)

From 1945 - 1975 the territories of Papua and New Guinea were administered jointly by Australia; the laws applying were English laws, imported mostly from Queensland, Australia, and laws made by the local legislative councils. Immediately prior to independence, the applicable laws in PNG included English imperial acts, certain Queensland acts, Australian Commonwealth enactments expressly adopted, and laws made by the local legislative council and later the pre-independence House of Assembly

* The briefs are taken from an article titled *Papua New Guinea* by Prof. J Nongor which appeared in *South Pacific Islands Legal Systems* edited by M A Ntuny University of Hawaii, 1993

Since independence on 16 September, 1975, the laws applying in the Independent State of PNG are, in order of superiority, the Constitution, the Organic laws, Acts of the National Parliament, emergency regulations, provincial laws, certain adopted pre-independence laws, and the "underlying law" (the term adopted in PNG's Constitution to refer to indigenous common law, incorporating custom and to the extent not inconsistent with statutes or custom, the adopted English common law and equity)

THE GOVERNMENT

The Government of PNG consists of the Executive, the Legislature and the Judiciary.

a. Head of State

The Queen of England is the Head of State, represented by a Governor General. The Head of State acts on almost all matters only on the advice of the National Executive Council or other prescribed body or authority.

b. The Executive

The National Executive Council, comprising the ministers making up the Cabinet, is headed by the Prime Minister. The Prime Minister is appointed by Parliament.

c. Legislature

The national Parliament is an elective legislature, subject to the Constitutional laws, with unlimited powers of law making.

d. Judiciary

The Judiciary consists of the Supreme Court, the National Court, and other courts.

The Supreme Court is the final Court of Appeal and has power to review all judicial acts of the National Court. It also has such other jurisdictions and powers as are conferred on it by the Constitution or any other law.

The National Court has an inherent power to review any exercise of judicial authority and has such other jurisdictions and powers as are conferred on it by the Constitution or any law except where the jurisdiction is with the Supreme Court or the powers of review of an Act of Parliament.

The other courts established are the District and the Local Courts. The Local Courts deal mainly with customary matters, and District Courts deal with matters specified under the District Acts and also have concurrent jurisdiction with other courts.

The National & Supreme Court and the Magisterial Services operated independently of each other until 1989. In 1990 the Magisterial Service merged with the National Judicial Service and came under the funding of the Judiciary annually

The Upper and Lower judiciary are granted one funding though they operate as different courts in their respective jurisdictions. The Chief Justice heads the Upper Courts and the Chief Magistrate heads the Lower Courts. The support staff of the Magisterial Services was transferred to National Judicial Staff Service with some of the functions previously administered by them.

The Supreme Court Library

The Supreme Court Library was established as an organised library on or around 1963 and was housed in the old Supreme Court Building in downtown Port Moresby some seven kilometres away from the present location.

Up to 1971 the library had no trained librarian to look after its library. The work in those days was carried out by the staff of the Registry under the guidance of the Registrar.

When the Supreme Court House was relocated in Waigani (Port Moresby) in 1974, the library also moved to the same building. It now occupies two floors of the Supreme Court Building and has seven branch libraries in the provincial towns throughout the country.

Prior to 1984, the library was controlled by the Attorney-General's Library (then Department of Justice Library). When the National Judicial Staff Service was recognised as a statutory body for the purposes of appropriation, the library was transferred back to the National Judicial Staff Service. It now operates as a division within the National Judicial Staff Service and is headed by the Librarian.

Function of the Library

Section 3(d) of the *National Judicial Staff Service Act 1987*, as amended, states the function of the Library is "to provide adequate library services to the Courts".

We aim to fulfil the above as best we can from the limited financial and manpower resources we have within our establishment as well as seek assistance from within and abroad.

Library Committee

The Library Committee appointed by the Chief Justice is responsible for the running of the library. The current committee members are Justice Woods as Chairman, Justice Brown and the Librarian.

The Committee is responsible for deciding what material to purchase, where to set up a new library, designing collection development policy and other matters regarding the running of the library.

All requests and recommendations from the judges, magistrates and court officials will have to go through the Library Committee for their approval. The Committee meets once every two months. However, administratively, the Librarian is answerable to the Registrar.

Decentralisation of the National Courts

Currently, the National Court is in the process of decentralisation. We have National Courts in five of our provincial centres. (There are 19 provinces excluding the capital in PNG). This means that we have to move fast and ahead of this decentralisation process so that there is a library in existence before a resident judge can be based in a Province. In this respect, the Librarian works closely with the administration to know which centres will have a resident judge in the coming or next year, etc.

Amendment to Magisterial Service Act

An amendment to the *Magisterial Service Act* (No 24 of 1990) which came into operation on 30 April 1991, made it possible for the support staff of the Magisterial Service to be transferred to the National Judicial Staff Service. When the support staff was transferred, some of the functions previously administered by the Magisterial Service were also transferred. Libraries were one of those functions that were transferred. This in effect means that we are not only responsible for the libraries where there is a National Court but also are responsible for all the Court Houses in the Country.

When the library functions were transferred, there were no libraries in the District Courts, particularly the Provincial Centres (19 in all) throughout the country. The Chief Magistrate's Office also had no organised library as there was no librarian. It was only in March 1991, when we took over the responsibility, that we recruited Mrs Madeline Orovea as its first Librarian.

Court of Justice Complex Building

A Court of Justice complex will be built between the National Library Service and the Supreme Court House in Waigani (Port Moresby), hopefully in 1995, and should be ready for occupation in 1998. This building will house the National Court, Office of Chief Magistrate, the Public Solicitor and Public Prosecutor's Offices, the Legal Training Institute and the Probation Services. Currently, the judges and the lawyers as well as other users use the same library. It is planned that when this new building is built, there will be four libraries. These are the Supreme and National Court, Legal Training Institute, Magisterial Service and the Public Prosecutor's and Public Solicitor's Offices.

However, depending on the arrangement of buildings and offices, the Magisterial Service and the National Court Library will be merged as we operate under one funding. It is also my plan to propose to the other Institutions the possibility of setting up a joint-use library rather than individual libraries within the same building.

The Supreme Court Library will then provide library services solely to the Supreme Court and National Court Judges and will remain as a headquarters library for all the Court Libraries in the Country. The National Court Library will provide library services to magistrates and the legal profession.

Users of the Library

The library was established to support and enhance the work of the Courts. First and foremost, the library was established to serve the needs of the judges, magistrates and court officers. However, we also allow the practitioners and other users both in the National Capital and the Provinces to use our library because the judges stated in their *Annual Report by the Judges 1985* at p. 7 that:

"For many years to come, citizen lawyers in Papua New Guinea whether in the National Capital or Provinces will not be able to acquire their own libraries and the court libraries will have to serve the legal profession as well as the courts"

However, section 105 of the *Lawyers Act 1986*, as amended, now requires the users of the library to pay K50.00 (approximately A\$75.00) which is due every July 19.

No class of lawyer is exempted from this payment. Lawyers and other users who have not paid their library fees are not allowed to use any of the court libraries.

In order to avoid unauthorised users, the Librarian compiles and circulates a list with the names of those who have paid their fees. This list is updated every time a new name is added to the list. A lawyer whose name does not appear on the list is not allowed to use the library

Any lawyer who does not follow the procedures of the library or abuses the procedures are referred to the Lawyers Disciplinary Committee

Staffing and Training

Our staffing has been increased from 1 in 1985 to 9 in 1994. Of this four are based in Port Moresby while six are in the provincial centres where there is a library. This will further be increased over the years when we set up a library in the other provinces.

Training of librarians is encouraged at all levels. Currently we have one staff member who holds a Degree in Library and Information Studies (BLIS), three with a Diploma in Library and Information Studies (DLIS) and the rest with the Library Technicians Certificates.

One of our staff will be completing her BLIS this year while another will be completing her DLIS in 1995.

The Department of Library and Information Studies at the University of Papua New Guinea offers the following courses :

Bachelor of Library & Information Studies (BLIS)

Diploma in Library & Information Studies (DLIS)

Library Technicians Certificate (Unfortunately this course will be discontinued from 1995).

Officers will be asked to attend these courses to improve their qualifications and we hope in the end, every staff member will hold a BLIS or DLIS.

Staff will also be trained on the job as well as attending short courses, seminars, conferences and workshops organised by various groups both within Papua New Guinea and abroad. In this respect, I will be needing assistance from the court librarians in Australia to accept our staff for attachments to their libraries when the need arises and to establish contact and dialogue between our libraries.

I also wish to place on record my appreciation and wish to thank the following Librarians and their staff for accepting or agreeing to accept our staff on attachments to their libraries.

Jacqueline Elliott. Court Librarian, High Court of Australia

Wendy Ryan. Librarian, Supreme Court, Western Australia

Jenny Cornish Librarian, Federal Court, Western Australia

Aladdin Rahemtula Librarian, Supreme Court, Queensland

Library Cooperation

Cooperation and resource sharing exists between the only law libraries we have in Papua New Guinea. These are the Supreme Court Library, Attorney-General's Library and the Law Library, University of PNG, which perhaps holds one of the best South Pacific law collections. Other smaller libraries are the Legal Training Institute, Law Reform Commission and Magisterial Service. These libraries are all located in Port Moresby.

We also seek assistance from the High Court of Australia and I would like to thank them for all the assistance they have given us in the past and trust that the same will continue in the future.

Conclusion

The establishment and the expansion of court libraries will continue beyond the year 2000. We will also be increasing and up-dating the existing libraries and at the same time improving the level of library services provided to our judges, magistrates, court officers and the legal profession.

We will also be increasing our staff as well as equipping them with the necessary skills to face the challenges ahead. In this respect, we will be seeking professional assistance both within and from court libraries in Australia.

References

- 1 *The Constitution of Papua New Guinea*
- 2 *Lawyers Act 1986*
- 3 *Magisterial Service (Amendment) Act 1990*
- 4 *National Judicial Staff Service Act 1987*
- 5 *1985 Annual Report by the Judges*
- 6 *South Pacific Islands Legal Systems* / ed by M A Ntumu University of Hawaii, 1993