

## **Supreme Court of Justice National Court of Justice**



### **REPORT OF THE JUDGES 2020**

**The Independent State of Papua New Guinea**

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## LIST OF ACRONYMS

|                   |  |
|-------------------|--|
| <b>ADR</b>        | Alternative Dispute Resolution                             |
| <b>AJ</b>         | Acting Judge   |
| <b>CCA</b>        | Certificate in Court Administration                        |
| <b>CDSB</b>       | Case Docketing System Database                             |
| <b>CJ</b>         | Chief Justice  |
| <b>CJE</b>        | Centre for Judicial Excellence                             |
| <b>CMJA</b>       | Commonwealth Magistrate and Judges Associations Conference |
| <b>CRCE</b>       | China Railway Construction Engineering                     |
| <b>CRO</b>        | Court Reporting Office/Officer                             |
| <b>CUF</b>        | Court User Forum   |
| <b>DCJ</b>        | Deputy Chief Justice                                       |
| <b>EFT</b>        | Electronic Fund Transfer                                   |
| <b>FCOT</b>       | Fraud and Corruption Track                                 |
| <b>FTR</b>        | For the Record   |
| <b>ICT</b>        | Information Communication and Technology                   |
| <b>IECMS</b>      | Integrated Electronic Case Management System               |
| <b>IOM</b>        | International Organization for Migration                   |
| <b>HR</b>         | Human Resource   |
| <b>ICCSB</b>      | Integrated Criminal Case System Database                   |
| <b>IMAAC</b>      | International Mediation and Arbitration Conference         |
| <b>IT</b>         | Information Technology                                     |
| <b>JSIMS</b>      | Judicial Services Integrated Management System             |
| <b>MOU</b>        | Memorandum of Understanding                                |
| <b>MS</b>         | Magisterial Services                                       |
| <b>NCM</b>        | National Coordination Mechanism                            |
| <b>NJSS</b>       | National Judicial Staff Services                           |
| <b>NSW</b>        | New South Wales  |
| <b>NSWJC</b>      | New South Wales Judicial Commission                        |
| <b>PAC LII</b>    | Pacific Islands Legal Information Institute                |
| <b>PFMA</b>       | Public Finance Management Act                              |
| <b>PGAS</b>       | Papua New Guinea Accounting System                         |
| <b>PJSI</b>       | Pacific Judicial Strengthening Initiative                  |
| <b>PNG SD</b>     | Papua New Guinea Sentencing Database                       |
| <b>RFI</b>        | Request for Information                                    |
| <b>SCA</b>        | Supreme Court Appeal                                       |
| <b>SCAPP</b>      | Supreme Court Applications                                 |
| <b>SCC (OS)</b>   | Supreme Court Constitutional Originating Summons           |
| <b>SCM</b>        | Supreme Court Motions                                      |
| <b>SCRA</b>       | Supreme Court Review/Appeal                                |
| <b>SCREF</b>      | Supreme Court References                                   |
| <b>SLOS</b>       | Social Law and Order Sector                                |
| <b>SCREV (EP)</b> | Supreme Court Review (Electronic Petitions)                |
| <b>WNCC</b>       | Waigani National Court Complex                             |

## Executive Summary

Amidst the uncertainty and challenges of a year beset with the Covid 19 Pandemic, the Judiciary continued to strive to meet its Constitutional function to bring judicial services to the People of Papua New Guinea and maintain public confidence, nationally and internationally, as the reputed premier institution upholding the rule of law in the country.

I am pleased to present to the People of Papua New Guinea, the Report of the Judges 2020 (the Report).

In 2020 the world was devastated by Covid 19. Across the globe the pandemic brought the operation of the court systems of many countries to a virtual halt. In this jurisdiction, the National and Supreme Courts implemented protocols designed to protect their judicial officers, staff, and all court users, whilst also ensuring that the courts continued to operate and serve the People of PNG. Even in times of lockdown the courts continued to sit across the country to hear urgent matters wherever necessary using essential staff only. Courts shut down and opened up in response to local outbreaks. In Port Moresby the Supreme Court sat with a limited number of judges every month to determine matters as and when they arose. The full five member bench sat to hear and urgently determine matters of Constitutional importance. Initiatives begun in 2019 enabled us to hear both Supreme and National Court matters through the use of technology, and there are plans for this to be expanded in the future. Despite the challenges faced, Supreme Court matters are now essentially up to date and the focus will shift in 2021 to the National Court.

Underpinning the efforts of the Judiciary to deliver quality justice in a timely manner are two critical enablers—buildings and information technology. The theme of the 2020 Budget submission to Parliament was, “Transformation of the Judiciary into an e-based organisation operating within world-class court infrastructure.” The ongoing transformation of the judiciary on this front will be apparent in the Report, as it was in the 2019 Report.

The Report contains the overall performance of the courts in 2020 in both the Supreme Court and the National Court. The main database the Judiciary operates to keep a record of all cases, from initial filing to eventual disposal, is the CDSB. The PNG Sentencing database records sentence imposed by the National Court and Supreme Court in criminal cases. It also keeps track of decisions delivered—published, unpublished and ex tempore (oral judgements). IECMS was recently introduced and will eventually transition the judiciary to e-courts for the civil track, and is operating presently in Waigani with plans to roll out to the provinces. Focusing on the criminal track is the ICCSD. Both the IECMS and ICCSD are case track management software applications. The main objective is to maintain a high disposition rate compared to the number of cases filed so as to reduce the high number of pending cases.

At the end of 2019, 1,158 cases were carried forward in the Supreme Court, and 493 new cases were filed. At the end of 2020, 394 cases were completed, giving a clearance rate of 80%. It is a marked improvement from the 49% clearance rate for 2019. Pending cases now in the Supreme Court sits at 1,257.

The National Court as the court of first instance and also the appeal court from the District Court, carries a larger number of cases, with 24,653 cases carried forward from the end of 2019. Throughout 2020, 5,448 cases were filed, and 4,444 cases completed. This gives a clearance rate of 82%, an improvement of 15% from 2019. However, the pending cases remain very high at 25,657.

Included in the pending cases are bench warrant matters, currently being treated as part of the "backlog". This is a situation where the person has refused to submit to the jurisdiction of the court. Whilst the court has a role to play, ultimately the responsibility for executing those warrants lies with other authorities.

No doubt, the clearance rate in the National Court and the Supreme Court were greatly affected by the pandemic-induced lockdowns.

Mediation is an option available to resolving disputes apart from the courts. If the Judges and the Courts increase use of mediation by an increased number of referrals to mediation, their case disposal would have correspondingly increased given that more than 60% of cases referred to mediation have been fully resolved.

We have highlighted a number of areas in the Report for improvement, such as alluded to above, the large number of pending cases in the National Court.

This calls for measures to be put in place to address areas of concern, through strategic administrative decisions. The main one reflected in the Report is to appoint new judges to increase the number of judges – five judges were appointed in 2020 and assumed duties in the year and were sent to serve outside of Waigani in the provinces.

Not only does the Judiciary strive to dispense justice in a timely manner, but it has over time extended its reach to as many main centres of Papua New Guinea as possible, considering the number of provinces in the country and the geographical spread of our people. Cases in each of the provinces where the National Court sits has generated data reported here, indicating the caseload in the provinces.

In order for the Judiciary to be innovative, relevant and dynamic to meet the needs of the present time, ongoing training of Judges is vital. The Papua New Guinea Centre for Judicial Education plays a significant role to meet this need. The various training activities coordinated by the PNGCJE during 2020 are highlighted in the Report.

Judges are aided in the performance of their functions through assistance provided by the National Judicial Staff Service, one of whose stated functions under the *National Judicial Staff Service Act 1987* is to provide “...legal, secretarial and clerical staff to enable the Courts to operate efficiently...”. One of the key assistance reported here is the overseeing of the infrastructure developments taking place in the judiciary in terms of building and information technology. On that note, an exciting development in the Judiciary is the building of its new court complex in Waigani which was reported in the 2019 Judge’s Report. It is about 56% complete and further details of the status of this project are provided, along with infrastructure developments in the provinces.

Occupied by the same person but performing two different roles, is the offices’ of Registrar and the Sheriff. The Report contains key achievements of those two offices assistance to the Judiciary for the effective and efficient delivery of justice.

I hope you find the Report informative and helpful to understand the work of the Judiciary in the year 2020.

Chief Sir Gibuma Gibbs Salika GCL KBE CSM OBE  
Chief Justice of Papua New Guinea

## Serving Judges in 2020

- 1 Chief Justice, Chief Sir Gibuma Gibbs Sailika GCL, KBE CSM, OBE
- 2 Deputy Chief Justice, Ambeng Kandakasi CBE
- 3 Justice Nicholas Robert Pakek Kirriwom CMG
- 4 Justice Les Gavara-Nanu CSM, OBE
- 5 Justice Ellenas Vitata Batari CSM, MBE
- 6 Justice Panuel Mogish CSM
- 7 Justice David Lionel Cannings CBE
- 8 Justice George Sulai Manuhu CSM
- 9 Justice Allen Kingsley David CMG
- 10 Justice Derek Richard Hartshorn ML
- 11 Justice Colin Kenway Makail
- 12 Justice Joseph Malinu Yagi CBE
- 13 Justice Ere Kariko CBE
- 14 Justice Jacinta Murray
- 15 Justice Berna Joan Collier
- 16 Justice John Alexander Logan RFD
- 17 Justice Iova Sebea Geita
- 18 Justice Lawrence Kangwia ML
- 19 Justice Peter Toliken
- 20 Justice Sir Kina Bona KBE
- 21 Justice Frazer Pitpit
- 22 Justice Hitelai Dorothy Polume-Kiele
- 23 Justice Kenneth Frank
- 24 Justice Robert Lee Lindsay
- 25 Justice William Neill
- 26 Justice Jeffery Shepherd
- 27 Justice Danajo Koeget
- 28 Justice Thomas Anis
- 29 Justice Ravunama Auka MPS
- 30 Justice Daniel Yale Liosi
- 31 Justice Jim Wala Tamate
- 32 Justice Oagile Bethuel Key Dingake
- 33 Justice Royale Thompson
- 34 Justice Teresa Anne Berrigan
- 35 Justice Nicholas Miviri DPS
- 36 Justice John Richie Benaud Kaumi
- 37 Justice John Numapo
- 38 Justice Sinclair Peniel Gora
- 39 Justice Vergil Los Narokobi
- 40 Justice Regina Sagu
- 41 Justice Stephen James Leo Kassman
- 42 Acting Justice Paulus Mapa Dowa
- 43 Acting Justice Elizabeth Nalaih Suelip
- 44 Acting Justice Paul Kima Tusais

# Supreme Court Profile

The Chief Justice Sir Gibbs Salika is the Judge Administrator of the Supreme Court.

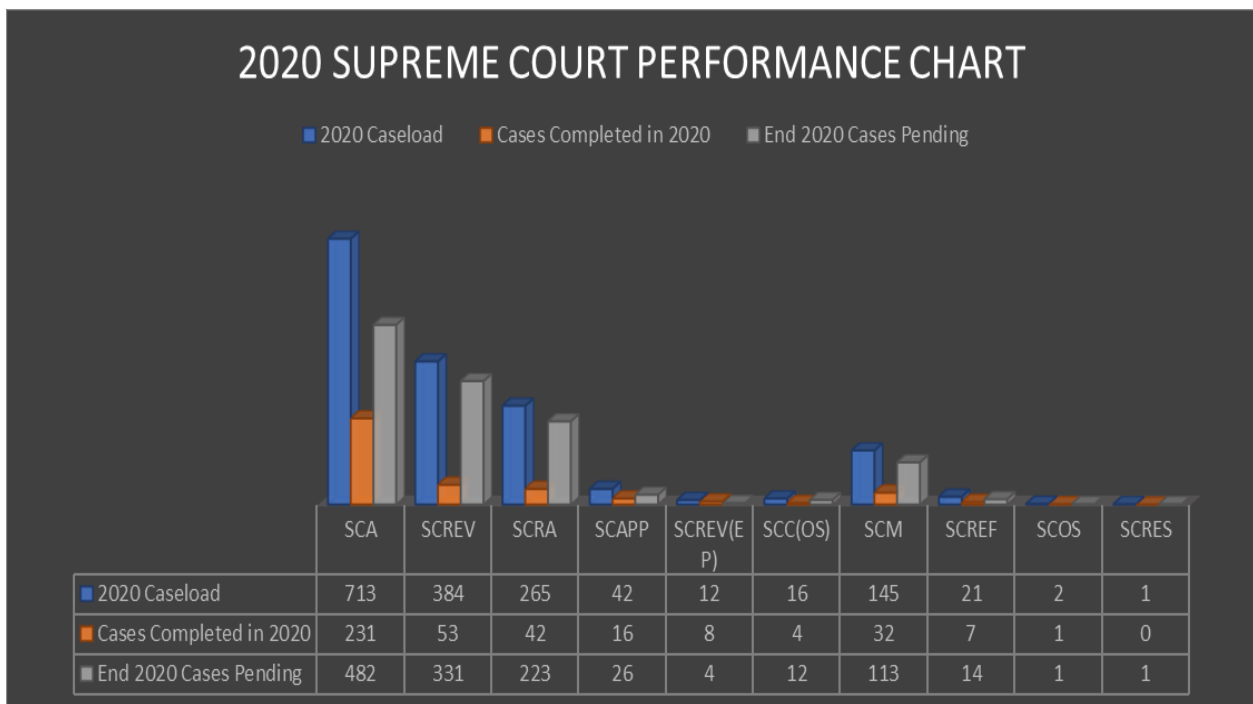
## Supreme Court Clearance Rate

The Supreme Court commenced the year 2020 with 1,195 pending cases. There were 493 new cases filed during the year and 394 cases completed, giving a clearance rate of 80%.

| Year | Total Case Filed | Total Case Finalized | Total Case Pending at Years End | Clearance Rate as % |
|------|------------------|----------------------|---------------------------------|---------------------|
| 2013 | 366              | 344                  | 984                             | 93.99%              |
| 2014 | 323              | 296                  | 989                             | 94.64%              |
| 2015 | 328              | 376                  | 914                             | 114.63%             |
| 2016 | 380              | 434                  | 908                             | 114.21%             |
| 2017 | 485              | 517                  | 930                             | 106.60%             |
| 2018 | 495              | 484                  | 973                             | 97.78%              |
| 2019 | 456              | 223                  | 1195                            | 48.90%              |
| 2020 | 493              | 394                  | 1257                            | 79.92%              |

## Supreme Court Performance for 2020

The Chart below shows the performance of the Supreme Court by type of case, the total caseload and the pending caseload at the end of the year.



SCA = Supreme Court Appeal; SCRA = Supreme Court Review/Appeal; SCM = Supreme Court Motions; SCREF = Supreme Court Reference; SCOS = Supreme Court Originating Summons; SCREV =



**Supreme Court – Average Duration by Case Type in 2020**

| Case Code    | Cases Completed | Average Disposal Rate |
|--------------|-----------------|-----------------------|
| SCA          | 235             | 848                   |
| SCREV        | 52              | 891                   |
| SCRA         | 42              | 979                   |
| SCAPP        | 16              | 596                   |
| SCRev(EP)    | 8               | 448                   |
| SCC(OS)      | 3               | 549                   |
| SCM          | 31              | 917                   |
| SCREF        | 7               | 667                   |
| <b>Total</b> | <b>394</b>      | <b>737</b>            |

**Supreme Court – Percentage of Appeals in 2020**

| Case Filed Year | Case Code | Total Case Filed | General Total Case Filed | Percentage |
|-----------------|-----------|------------------|--------------------------|------------|
| <b>2020</b>     | SCA       | 222              | 443                      | 50%        |
| <b>2020</b>     | SCRA      | 40               | 443                      | 9%         |
| <b>2020</b>     | SCM       | 42               | 443                      | 10%        |

Of all Supreme Court cases filed in 2020, 69% of them are appeals. The other 31% of the Supreme Court cases filed are constitutional matters.

Due to the Covid-19 pandemic Supreme Court circuits to the provinces were limited. There were circuits to Wewak in March and Lae in June. Kokopo had two Supreme Court circuits—one in July and another one in November.

### Supreme Court—Average Duration of Cases

From the total number of pending cases in the Supreme Court, majority of the cases are one to two years old. The following table is showing the age of these cases pending in the Supreme Court.

| <b>Age Range</b>               | <b>Count</b> |
|--------------------------------|--------------|
| Less than One Year cases       | 451          |
| One Year Old Cases             | 334          |
| Two Years Old Cases            | 182          |
| Three Years Old Cases          | 152          |
| Four Years Old Cases           | 61           |
| Five Years Old Cases           | 38           |
| Greater than 5 Years old cases | 39           |
| <b>Total</b>                   | <b>1257</b>  |

## 2020 Landmark Decisions

In 2020, a number of significant decisions were delivered. The effect of them was to develop new areas of law or to demonstrate the importance of the principles of separation of powers and the independence of the judiciary. A number of these decisions are presented here.

A notable example of a decision that recognised and adopted the principles of the underlying law was the case of *Application by Namah* (2020) SC1932. The issue was whether the Leader of the Opposition had standing under s 18(1) of the *Constitution* to seek the Supreme Court's opinion on questions relating to the application and interpretation of Constitutional laws. The Supreme Court held that the question of whether an applicant under s 18(1) of the *Constitution* has standing is a matter at the discretion of the Supreme Court, to be exercised in accordance with the rules of the underlying law formulated in *Re Petition of MT Somare* [1981] PNGLR 265. Applying the principles in that case, the Supreme Court determined that Mr Namah had standing.

In *Reference by the Ombudsman Commission Pursuant to Constitution, Section 19(1), Re Public Money Management Regularisation Act 2017* (2020) SC1944, various questions of constitutional interpretation and application were referred by the Ombudsman Commission to the Supreme Court under s19(1) of the *Constitution*, seeking the Court's opinion on the constitutionality of the *Public Money Management Regularisation Act 2017* ("the PMMR Act"). The referrer asked the Court to declare that the Act is unconstitutional in whole or in part in that it: (1) provides for compulsory acquisition of property in a way not permitted by s 53 of the *Constitution*; (2) alters the Constitutional Laws (by purporting to bind constitutional institutions), other than by ss 12 and 13 of the *Constitution*; (3) ousts the jurisdiction of the courts by restricting exercise of judicial power to an extent not permitted by ss 37, 155, 166 and 157 of the *Constitution*; (4) offends against the principle of parliamentary control over raising and expending of public money, under ss 209, 210 and 211 of the *Constitution*; (5) provides for such harsh and oppressive penalties for offences that it offends s 41 of the *Constitution*; (6) creates an offence, the elements of which are so broad and ill-defined that it offends against the requirement of s 37(2) (protection of the law) of the *Constitution* that offences be defined by written law; (7) purports to elevate itself to a status above the Constitutional Laws, contrary to ss 12, 13 and 14 of the *Constitution*; (8) restricts exercise of rights of freedom of expression and freedom from arbitrary search and entry without complying with s 38 of the *Constitution*; (9) by its application to the judiciary, is offensive to the principle of judicial independence entrenched by ss 99 and 157 of the *Constitution*; (10) restricts exercise of the right to privacy without complying with s 38 of the *Constitution*. The Supreme Court held that the Act provides for compulsory acquisition of property other than on just terms, contrary to s 53 of the *Constitution*, and for that reason alone, being inconsistent with the *Constitution*, is invalid and ineffective in its entirety.

Another important finding of the majority decision was that to the extent that the PMMR Act applies to public bodies and statutory bodies (excluding the courts and administrative agencies within the National Judicial System), it did not offend against the principle of parliamentary control over raising and expending of public money, under ss 209, 210 and 211 of the *Constitution*. However, the principle of separation of powers under s 99 of the *Constitution* is strengthened and enforced by ss 209(2), (2A), (2B) and (3) of the *Constitution* with the effect that the *Constitution* did not intend that the Executive should control the finances of the other arms, the Parliament and the Judiciary.

In *Kiiark v Luio* (2020) SC1964, the Supreme Court clarified important procedures surrounding appeals from the District Court to the National Court. It held amongst others that s 227 of the *District Courts Act* operates as an automatic stay of the decision of the District Court the subject of the appeal to the National Court

for a period of 40 days after the filing of a notice of appeal. That stay lapses at the expiration of the 40-day period and the decision of the District Court can thereafter be enforced by a Court or Magistrate unless within that 40-day period the appellant has filed in the National Court Registry an entry of appeal in Form 73 of Schedule 2 of the *District Courts Act*.

*Reference by the Principal Legal Adviser Pursuant to Section 26 of the Supreme Court Act, Re Section 539 of the Criminal Code (2020) SC1999* was an important case as it clarified important aspects of criminal trials and procedures. The Principal Legal Adviser referred a point of law to the Supreme Court under s 26 of the *Supreme Court Act* arising from a criminal trial in the National Court in which an accused, charged with wilful murder, was entirely acquitted despite the Court finding that he had killed the deceased unlawfully with an intention to cause grievous bodily harm, thus being satisfied of proof of the elements of the offence of murder. The trial judge held that the indictment had to contain an alternative charge of murder or manslaughter before an alternative verdict could be entered, and because the indictment did not contain any alternative charge the accused was entitled to be entirely acquitted. The point of law referred to the Supreme Court was whether it is necessary, in order for the Court to enter a conviction for murder or some lesser offence, for an alternative charge to be included on an indictment that charges an accused with wilful murder.

The Supreme Court held that if the only charge on an indictment is wilful murder and, after trial, all elements of that offence are not proven, s 539 of the *Criminal Code* allows the Court, if satisfied of the elements, to enter a conviction for an alternative offence of murder, manslaughter, unlawful grievous bodily harm, unlawful assault doing bodily harm, unlawful wounding or unlawful assault.

The Supreme Court also held that it is not necessary, for the Court to convict an accused of a lesser offence, for an alternative charge to be included on an indictment that charges an accused with wilful murder, murder or manslaughter.

Furthermore in the Supreme Court's finding, if the only charge on an indictment is wilful murder and at the close of the State's case, a no-case submission is made and there is no evidence of an intention to kill, the Court is not obliged to entirely acquit the accused, but may, consistently with s 539 of the *Criminal Code*, order the trial to proceed and, if satisfied of the elements, enter a conviction for an alternative offence of murder, manslaughter, unlawful grievous bodily harm, unlawful assault doing bodily harm, unlawful wounding or unlawful assault.

*Application by Namah; Application pursuant to Constitution, Section 18(1), In re (2020) SC2040* dealt with questions surrounding the appointment of the Prime Minister. The Leader of the Opposition applied under s 18(1) of the *Constitution* for a declaration that the appointment on 30 May 2019 of the Prime Minister was unconstitutional. He argued that various provisions of the *Constitution* were breached as a result of the Speaker of the National Parliament not adhering to the Standing Orders of the National Parliament in the conduct of the election that took place in the Parliament that day, in two respects. First, by allowing the Prime Minister to be nominated as a candidate by an individual member of the Parliament, not by a qualified political party, contrary to s 7A(3) of the Standing Orders. Secondly, by accepting unilaterally the withdrawal by a member who had previously accepted his nomination as a candidate, contrary to s 158 of the Standing Orders, as the question of whether Mr O'Neill should be granted leave to withdraw should have been put to the Parliament. The applicant argued that non-compliance with the Standing Orders meant that the decision of the Parliament regarding election of the Prime Minister was not in compliance with ss 108 and 142 of the *Constitution*, which require the Speaker to conduct the election for Prime Minister in accordance with the Standing Orders. Five parties were granted leave to intervene in the proceedings: the Prime Minister, the Speaker, the Attorney-General, the Registrar of Political Parties and a registered political party. The fourth intervener supported the application. Other interveners opposed it, arguing that the questions raised by the application are non-justiciable under s 134 of the *Constitution* and should not be heard by the Court. However, if the questions are heard, the questions should be resolved against the applicant as there was no breach of the Standing Orders by the Speaker.

The Supreme Court held that the application raises questions as to whether the procedures prescribed for the Parliament by the Standing Orders have been complied with. Such questions are non-justiciable under s 134 of the *Constitution* and cannot be heard or determined by any Court, including the Supreme Court. For that reason alone, the application was dismissed.

As to the issue of whether the Standing Orders were complied with, the Supreme Court held that the applicant failed to satisfy the Court that there had been any breach of the Standing Orders. For that reason also, no case was made out for granting the relief sought by the applicant.

In *Application by O'Neill; Application pursuant to Constitution, Section 18(1), In re* (2020) SC2043, the following circumstances arose. On 10 November 2020 the National Parliament commenced meeting, and sat on 11, 12 and 13 November 2020. On 13 November 2020, when the Deputy Speaker was presiding, the National Parliament decided that it would sit next on 1 December 2020. On 16 November 2020 the Speaker of the National Parliament publicly announced his opinion that the ruling of the Deputy Speaker on 13 November 2020, which led to the decision to sit next on 1 December 2020, was incorrect. The Speaker stated that the ruling was contrary to s 2(1)(a)(i) of the *Organic Law on the Calling of Meetings of the Parliament* and the *Standing Orders* as the decision to adjourn to 1 December 2020 was preceded by a motion by the Leader of the Opposition, not by a motion by a Minister. The Speaker overruled the decision of the Deputy Speaker and stated that the meeting that commenced on 10 November 2020 was still in progress and shall only be adjourned by a Minister on motion without notice pursuant to the *Standing Orders* and the *Organic Law on the Calling of Meetings of the Parliament*. As a result of the Speaker's public announcement, the Parliament sat on 17 November 2020. It passed the 2021 National Budget and adjourned to 20 April 2021. On 18 November 2020, the applicant, a member of the Parliament opposed to the government, commenced proceedings under s 18(1) of the *Constitution*, seeking various declarations and orders, including a declaration that the decision of the Parliament of 13 November 2020 to adjourn to 1 December 2020 was constitutional; a declaration that the Speaker's overruling of the decision of the Deputy Speaker amounted to an overruling of the decision of the Parliament to adjourn to 1 December 2020 and was unconstitutional; a declaration that the business of the Parliament transacted at the meeting on 17 November 2020, including the passing of the National Budget and the adjournment to 20 April 2021, was unconstitutional; and an order that the Parliament shall meet as soon as is practicable. The Supreme Court held that:

- (1) The Parliament's decision of 13 November 2020 involved no breach of any procedure prescribed by any Constitutional Law, and in particular involved no breach of s 2(1)(a)(i) of the Organic Law on the Calling of Meetings of the Parliament. The decision of the Parliament was to adjourn the sittings of the Parliament to 1 December 2020 and could be made on a motion by the Leader of the Opposition. The decision was not to call a new meeting of the Parliament.
- (2) The Speaker's decision of 16 November 2020 to overrule the Deputy Speaker's rulings of 13 November 2020 (which necessarily entailed the overruling of the Parliament's decision to adjourn to 1 December 2020) was made in excess of his powers, functions, duties and responsibilities under s108 of the *Constitution* and was unauthorised by any other law and was unconstitutional, invalid and ineffective.
- (3) The sitting of the Parliament on 17 November 2020 was unconstitutional as it took place only because of the unconstitutional decision by the Speaker of 16 November 2020 to overrule the Deputy Speaker's rulings of 13 November 2020, which had the effect of overruling a constitutional decision of the Parliament of 13 November 2020 to adjourn its sittings to 1 December 2020.
- (4) Declarations were made accordingly; and it was ordered that the next sitting of the Parliament shall be on 14 December 2020 at 10.00 am.

Many decisions were made but the ones identified here established in one way or another the principles of separation of powers and the independence of the judiciary.

# National Court Profile

Deputy Chief Justice Kandakasi is the Judge Administrator of the National Court.

## National Court Tracks—Judge Administrators

|                           |   |   |
|---------------------------|---|---|
| Crimes General            | - | Justice Mogish, Waigani                 |
| Crimes (FCOT)             | - | Justice Berrigan, Waigani               |
| Civil General             | - | Justice Kariko, Waigani                 |
| Election Petitions        | - | Justice Yagi, Waigani                   |
| Appeals & Judicial Review | - | Justice Dingake, Waigani                |
| Commercial                | - | Justice Anis, Waigani                   |
| Human Rights              | - | Justice Cannings, Waigani               |
| State Claims              | - | Justice Polume-Kiele, Waigani           |
| Mediations & ADR          | - | Deputy Chief Justice Kandakasi, Waigani |
| Leadership Tribunal       | - | Justice Miviri, Waigani                 |

## Judges Postings in 2020

| Waigani        | Lae             | Kimbe           |
|----------------|-----------------|-----------------|
| Salika CJ      | Murray J        | Batari J        |
| Kandakasi DCJ  | Pitpit J        | Numapo J        |
| Gavara-Nanu J  | Dowa AJ         | <b>Kundiawa</b> |
| Mogish J       | <b>Mt Hagen</b> | Liosi J         |
| Cannings J     | Frank J         |                 |
| Manuhu J       | Lindsay J       | <b>Alotau</b>   |
| David J        | Sagu J          | Toliken J       |
| Hartshorn J    | <b>Kokopo</b>   | <b>Wewak</b>    |
| Makail J       | Kassman J       | Kirriwom J      |
| Kariko J       | Tusais AJ       | Gora J          |
| Collier J      | Suelip AJ       |                 |
| Logan J        | <b>Goroka</b>   | <b>Buka</b>     |
| Polume-Kiele J | Yagi J          | Bona J          |
| Shepherd J     | Neill J         | <b>Kavieng</b>  |
| Anis J         |                 | Kangwia J       |
| Tamate J       | <b>Madang</b>   | <b>Tari</b>     |
| Dingake J      | Geita J         | Kaumi J         |
| Thompson J     | Narokobi J      | <b>Daru</b>     |
| Berrigan J     | <b>Wabag</b>    | Koeget J        |
| Miviri J       | Auka J          |                 |

**National Courts– Location of circuit court sittings in the country**

Below is Kacific 1 Satellite, which will provide a more efficient and effective means of connecting the various court locations once the satellite dish has been set up in each of the respective provinces the Judiciary has a registry or sub-registry.

In the reporting year the National Court sittings were conducted in the main court locations around the country. The court circuit published through the court calendar was prepared in consultation with the key agencies such as the Public Prosecutor, Public Solicitor, Police and Correctional Services. Below is the table of locations National Court sittings were conducted.



**NATIONAL COURT REGISTRIES**

|          |                |
|----------|----------------|
| Waigani  | Popondetta     |
| Lae      | Daru           |
| Kokopo   | Vanimo         |
| Mt Hagen | Kerema         |
| Goroka   | Minj           |
| Wewak    | Kainantu       |
| Kimbe    | Kwikila        |
| Madang   | Bereina        |
| Alotau   | Wapenamanda    |
| Mendi    | Bialla         |
| Kundiawa | Arawa 15       |
| Wabag    | Lihir          |
| Kavieng  | Tabubil/Kiunga |
| Buka     | Manus          |
| Tari     |                |

## Measuring Court Performance and Workload

The Court's performance can be measured in a number of ways. The International Framework for Court Excellence is a widely accepted framework for measuring the Court's performance and workload. It provides the underlying rubric for this report.

### The National Court

The work of the National Court is divided into two categories of cases, civil and criminal. Civil cases covers a wide range of area, which for ease of administration is further divided into 25 subtypes identified by file reference.

### The National Court Clearance Rate

The clearance rate for the National Court in the year 2020 is 82 percent. This shows that the Court has performed well compared to the past year. However, this also could mean that less cases are being filed in 2020 due to COVID-19 lockdown measures being implemented in the same year.

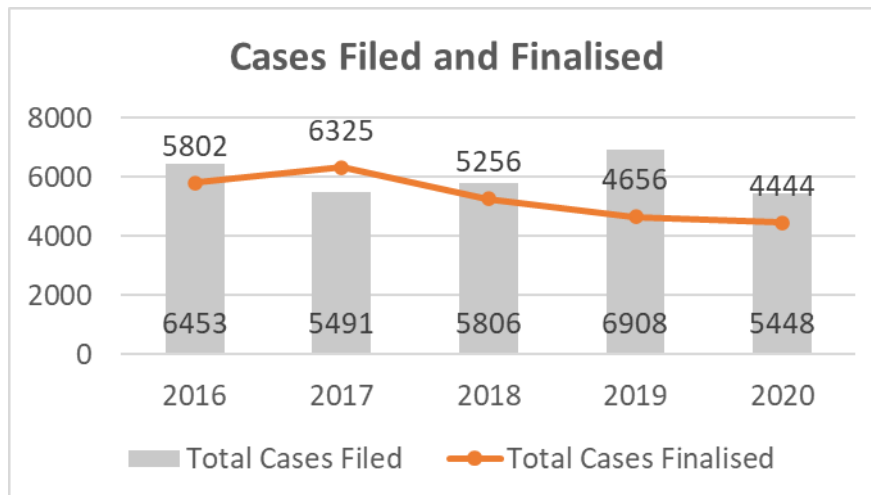
The average clearance rate of the National Court is about 88 percent. This would mean that the court is only accumulating cases that will add on to the existing backlog of pending cases.

The following table and graph shows the clearance rate for year 2016 up to year 2020.

| Year          | Total Cases Filed | Total Cases Finalised | Total Cases Pending | Clearance Rate as a % |
|---------------|-------------------|-----------------------|---------------------|-----------------------|
| 2015          |                   |                       | 22034               |                       |
| 2016          | 6453              | 5802                  | 22685               | 89.91%                |
| 2017          | 5491              | 6325                  | 21851               | 115.19%               |
| 2018          | 5806              | 5256                  | 22401               | 90.53%                |
| 2019          | 6908              | 4656                  | 24653               | 67.40%                |
| 2020          | 5448              | 4444                  | 25657               | 81.57%                |
| <b>Total:</b> | <b>30106</b>      | <b>26483</b>          | <b>25657</b>        | <b>87.97%</b>         |

Table 2 showing clearance rate of cases in the National Court over a 5-year period.

The following graph is the pictorial representation of the clearance rate in the National Court.



Graph 2 shows cases filed against cases finalized in the National Court.

The purpose of showing the clearance rate of previous years as well in this report is so that readers can see how the court has performed compared to the previous years.

For these reporting period, the National Court has performance well compared to previous year despite the lockdown measures imposed by the National Government.



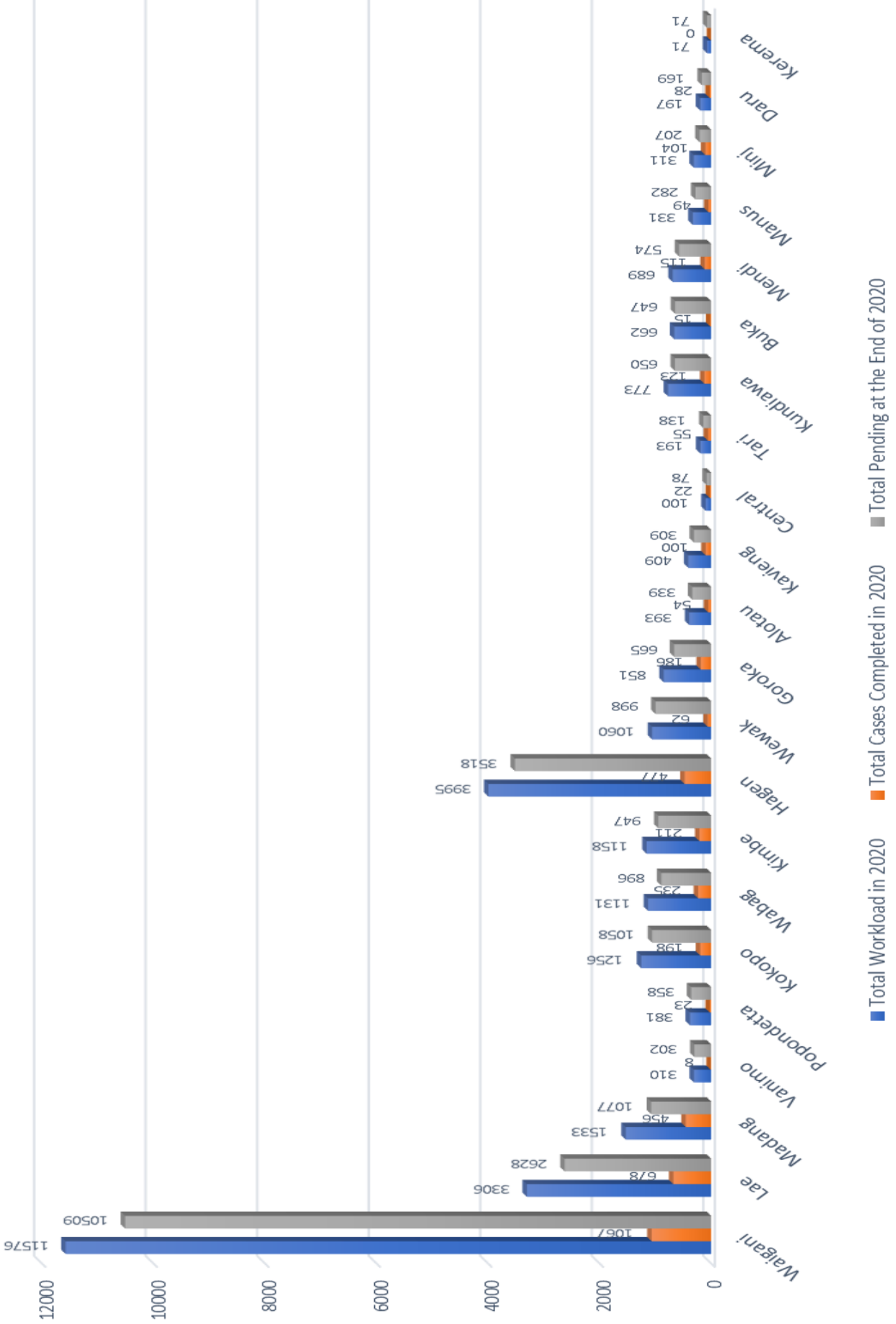
The work throughput was affected mainly by the Covid-19 Pandemic. However, the Court has done its best to respond to the challenge.

At the end of 2019 the total number of pending cases in the Court's registers was 24,652.

### National Court Performance by Court Locations

| Location Code | Location   | Pending Cases Brought Forward to 2020 | New Cases Filed in 2020 | Total Workload in 2020 | Total Cases Completed in 2020 | Total Pending at the End of 2020 |
|---------------|------------|---------------------------------------|-------------------------|------------------------|-------------------------------|----------------------------------|
| WGN           | Waigani    | 9184                                  | 1806                    | 11576                  | 1067                          | 10509                            |
| LAE           | Lae        | 2686                                  | 620                     | 3306                   | 678                           | 2628                             |
| MAD           | Madang     | 1105                                  | 428                     | 1533                   | 456                           | 1077                             |
| VAN           | Vanimu     | 239                                   | 71                      | 310                    | 8                             | 302                              |
| POP           | Popondetta | 314                                   | 67                      | 381                    | 23                            | 358                              |
| KPO           | Kokopo     | 950                                   | 306                     | 1256                   | 198                           | 1058                             |
| WAB           | Wabag      | 875                                   | 256                     | 1131                   | 235                           | 896                              |
| KIM           | Kimbe      | 882                                   | 276                     | 1158                   | 211                           | 947                              |
| HGN           | Hagen      | 3444                                  | 551                     | 3995                   | 477                           | 3518                             |
| WWK           | Wewak      | 932                                   | 128                     | 1060                   | 62                            | 998                              |
| GKA           | Goroka     | 644                                   | 207                     | 851                    | 186                           | 665                              |
| ALO           | Alotau     | 282                                   | 111                     | 393                    | 54                            | 339                              |
| KAV           | Kavieng    | 346                                   | 63                      | 409                    | 100                           | 309                              |
| CEN           | Central    | 77                                    | 23                      | 100                    | 22                            | 78                               |
| TRI           | Tari       | 151                                   | 42                      | 193                    | 55                            | 138                              |
| KND           | Kundiawa   | 673                                   | 100                     | 773                    | 123                           | 650                              |
| BKA           | Buka       | 557                                   | 105                     | 662                    | 15                            | 647                              |
| MDI           | Mendi      | 621                                   | 68                      | 689                    | 115                           | 574                              |
| MAN           | Manus      | 226                                   | 105                     | 331                    | 49                            | 282                              |
| MNJ           | Minj       | 238                                   | 73                      | 311                    | 104                           | 207                              |
| DRU           | Daru       | 157                                   | 40                      | 197                    | 28                            | 169                              |
| KER           | Kerema     | 69                                    | 2                       | 71                     | 0                             | 71                               |
| <b>TOTAL</b>  |            | <b>24652</b>                          | <b>5348</b>             | <b>30100</b>           | <b>4266</b>                   | <b>26420</b>                     |

## 2020 NATIONAL COURT LOCATIONS PERFORMANCE CHART



### National Court Pending Caseload by Court Locations in the Year 2020

At the end of year 2020, the total number of cases pending in the National Court was 25,657. This includes both civil and criminal cases.

More than 50 percent of the civil cases in the country are filed and heard in Waigani.

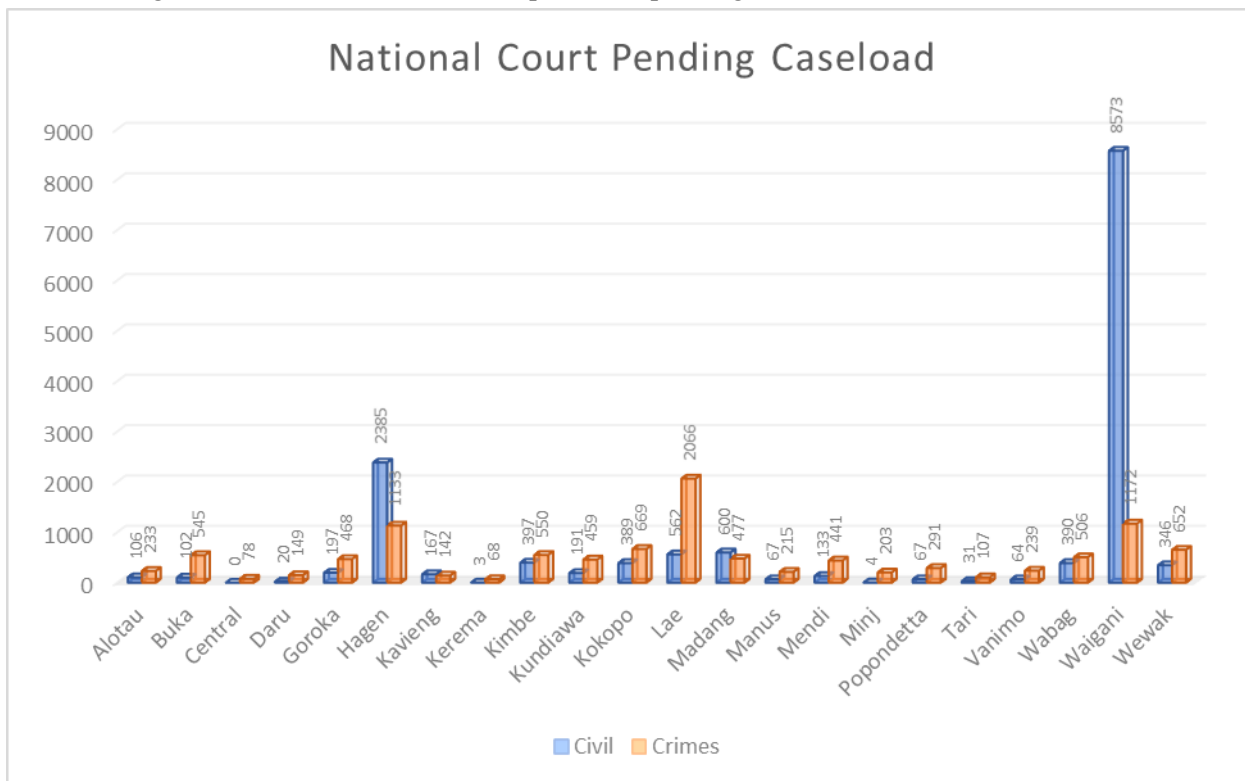
The table 3 summarizes the caseload in various locations in the country as of 31st December 2020. The pending criminal cases have been categorized into 4 different categories: Remand, Bail, Bench Warrants and cases whose status is yet to be identified.

| Location Code | National Court Location | Civil        | Crimes Count |             |               |           |              | Total        |
|---------------|-------------------------|--------------|--------------|-------------|---------------|-----------|--------------|--------------|
|               |                         |              | Remand       | Bail        | Bench Warrant | Unsigned  | Crimes       |              |
| ALO           | Alotau                  | 106          | 146          | 36          | 50            | 1         | 233          | 339          |
| BKA           | Buka                    | 102          | 177          | 72          | 293           | 3         | 545          | 647          |
| CEN           | Central                 | 0            | 18           | 8           | 52            | 0         | 78           | 78           |
| DRU           | Daru                    | 20           | 13           | 20          | 116           | 0         | 149          | 169          |
| GKA           | Goroka                  | 197          | 99           | 53          | 316           | 0         | 468          | 665          |
| HGN           | Hagen                   | 2385         | 51           | 480         | 600           | 2         | 1133         | 3518         |
| KAV           | Kavieng                 | 167          | 29           | 14          | 99            | 0         | 142          | 309          |
| KER           | Kerema                  | 3            | 2            | 8           | 58            | 0         | 68           | 71           |
| KIM           | Kimbe                   | 397          | 105          | 57          | 388           | 0         | 550          | 947          |
| KND           | Kundiawa                | 191          | 84           | 53          | 321           | 1         | 459          | 650          |
| KPO           | Kokopo                  | 389          | 280          | 161         | 223           | 5         | 669          | 1058         |
| LAE           | Lae                     | 562          | 490          | 272         | 1304          | 0         | 2066         | 2628         |
| MAD           | Madang                  | 600          | 83           | 57          | 337           | 0         | 477          | 1077         |
| MAN           | Manus                   | 67           | 122          | 37          | 56            | 0         | 215          | 282          |
| MDI           | Mendi                   | 133          | 210          | 138         | 91            | 2         | 441          | 574          |
| MNJ           | Minj                    | 4            | 27           | 61          | 115           | 0         | 203          | 207          |
| POP           | Popondetta              | 67           | 67           | 80          | 143           | 1         | 291          | 358          |
| TRI           | Tari                    | 31           | 33           | 10          | 64            | 0         | 107          | 138          |
| VAN           | Vanimu                  | 64           | 96           | 62          | 81            | 0         | 239          | 303          |
| WAB           | Wabag                   | 390          | 189          | 47          | 267           | 3         | 506          | 896          |
| WGN           | Waigani                 | 8573         | 209          | 182         | 744           | 37        | 1172         | 9745         |
| WWK           | Wewak                   | 346          | 122          | 168         | 360           | 2         | 652          | 998          |
| <b>Total</b>  |                         | <b>14794</b> | <b>2652</b>  | <b>2076</b> | <b>6078</b>   | <b>57</b> | <b>10863</b> | <b>25657</b> |

Table 3 showing the total caseload for each National Court location at the end of year 2020.

The 10,863 criminal cases comprise of bail, remand and bench warrants. The bench warrant cases constitute about 55 percent of the total pending criminal cases. The responsibility to close off these bench warrant cases not only lies with the Courts but extends to the public prosecutor as well as the general Law and Justice sector.

The following chart further shows the breakup of these pending workload in the National Court.



Graph 3 – Chart showing the pending caseload in the National Court for Civil and Criminal cases.

#### Average Duration of Cases in the National Court

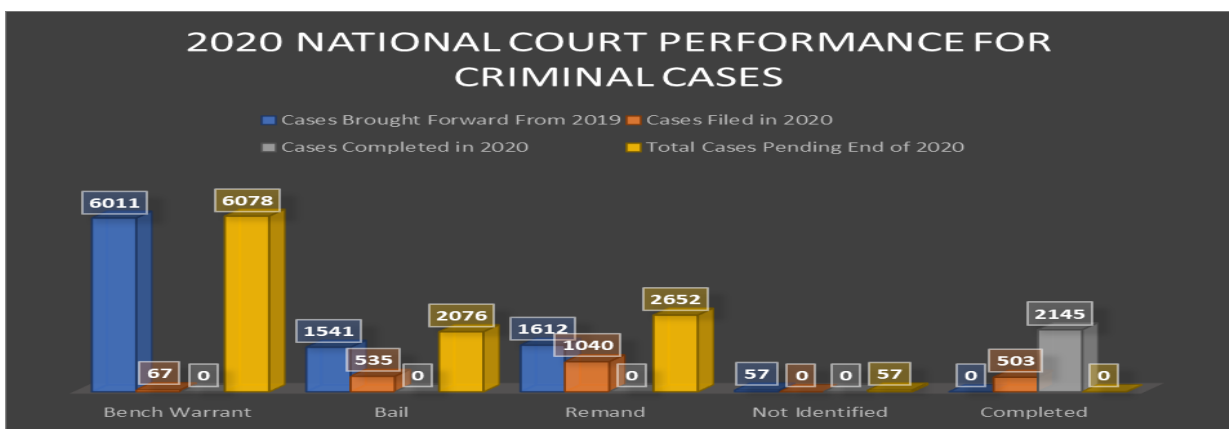
Half of the pending cases in the civil court of the National court are more than 3 years old. As for the criminal jurisdiction of the National Court majority of the pending cases are more than 3 years old. Following is the table showing age distribution of pending civil cases in the National Court as at 31<sup>st</sup> December 2020.

| National Court Civil Cases     |              |
|--------------------------------|--------------|
| Age Range                      | Count        |
| Less than One Year cases       | 2738         |
| One Year Old Cases             | 3308         |
| Two Years Old Cases            | 1977         |
| Three Years Old Cases          | 1200         |
| Four Years Old Cases           | 922          |
| Five Years Old Cases           | 898          |
| Greater than 5 Years old cases | 3751         |
| <b>Total</b>                   | <b>14794</b> |

## National Court Criminal Jurisdiction

At the end of year 2020, there were 10,863 criminal cases pending in the National Court. About 56 percent of these case are bench warrants. Some of the bench warrant cases date back more than 10 years. The following table and graph present summarise the criminal cases in the National Court.

| Criminal Status | Cases Brought Forward From 2019 | Cases Filed in 2020 | Cases Completed in 2020 | Total Cases Pending End of 2020 |
|-----------------|---------------------------------|---------------------|-------------------------|---------------------------------|
| Bench Warrant   | 6011                            | 67                  | 0                       | 6078                            |
| Bail            | 1541                            | 535                 | 0                       | 2076                            |
| Remand          | 1612                            | 1040                | 0                       | 2652                            |
| Not Identified  | 57                              | 0                   | 0                       | 57                              |
| Completed       | 0                               | 503                 | 2145                    | 0                               |
| <b>TOTAL</b>    | <b>1669</b>                     | <b>1543</b>         | <b>2145</b>             | <b>10863</b>                    |



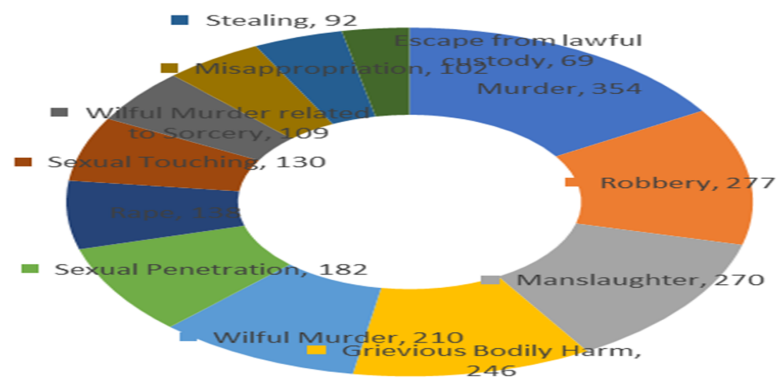
Following is the table showing age distribution of pending criminal cases in the National Court as at 31<sup>st</sup> December 2020.

| National Court Criminal Cases  |              |
|--------------------------------|--------------|
| Age Range                      | Count        |
| Less than One Year cases       | 1642         |
| One Year Old Cases             | 1263         |
| Two Years Old Cases            | 1007         |
| Three Years Old Cases          | 710          |
| Four Years Old Cases           | 721          |
| Five Years Old Cases           | 498          |
| Greater than 5 Years old cases | 5022         |
| <b>Total</b>                   | <b>10863</b> |

## Types of Offences in the National Court Criminal Track

Statistics is the most significant feature of the PNGSD which main purpose is to assist the Judges and Magistrates to achieve consistency and uniformity in the delivering of criminal sentencing judgments. The current Statistics include all the criminal offences prosecuted in the National Court with their respective type of sentence imposed with their term of imprisonment. Moreover, it contains the case characteristics which a Judge considers before handing down the sentence.

In 2020, a total of 99 new sentences were added onto the statistics of which 16 cases were registered in 2020 and sentence delivered the same year while the balance of 85 cases were registered in 2019 and sentences were delivered this year, 2020. The common offence as per the statistics is shown in the graph below.



From the graph above, one can tell that the leading offence which is currently being prosecuted at the National Court is Murder, followed by Robbery, Manslaughter, Grievous Bodily Harm (GBH) and Wilful Murder. The statistics for a particular offence type, for instance, Wilful Murder, will show the total number of cases together with the type of penalty imposed by the Courts.

## National Court Civil Jurisdiction

At the end of 2020 year, there were 14,794 civil cases pending in the National Court. Majority of these civil cases were filed and heard in Waigani. The table below shows the different categories of the civil cases in the National Court.

| Case Description                              | Pre-2020 Cases Brought Forward | Cases Filed in 2020 | 2020 Total Caseload | Cases Completed in 2020 | Cases Pending at End of 2020 |
|---|--------------------------------|---------------------|---------------------|-------------------------|------------------------------|
| Writ of summons                               | 7427                           | 1001                | 8428                | 1353                    | 7075                         |
| Civil Appeal                                  | 526                            | 60                  | 586                 | 111                     | 475                          |
| Originating Summons                           | 3240                           | 415                 | 3655                | 574                     | 3081                         |
| Wills & Probates                              | 288                            | 84                  | 372                 | 67                      | 305                          |
| Matrimonial Causes                            | 126                            | 12                  | 138                 | 16                      | 122                          |
| Election Petition                             | 12                             | 9                   | 21                  | 3                       | 18                           |
| Election Petition - Originating Summons       | 13                             | 0                   | 13                  | 3                       | 10                           |
| Election Petition - Writ of Summons           | 1                              | 0                   | 1                   | 0                       | 1                            |
| Human Rights                                  | 7                              | 16                  | 23                  | 13                      | 10                           |
| Human Rights Administration                   | 588                            | 224                 | 812                 | 299                     | 513                          |
| Human Rights Complaint                        | 59                             | 130                 | 189                 | 119                     | 70                           |
| Human Right Own Initiative                    | 4                              | 14                  | 18                  | 13                      | 5                            |
| Human Rights—Miscellaneous Proceedings        | 41                             | 6                   | 47                  | 6                       | 41                           |
| Human Rights - Originating Summons            | 141                            | 33                  | 174                 | 20                      | 154                          |
| Human Rights - Writ of Summons                | 839                            | 68                  | 907                 | 50                      | 857                          |
| Miscellaneous Proceedings                     | 449                            | 9                   | 458                 | 35                      | 423                          |
| Election Petition - Miscellaneous Proceedings | 8                              | 0                   | 8                   | 0                       | 8                            |
| Lawyer Admission                              | 52                             | 2                   | 54                  | 2                       | 52                           |
| Leadership Tribunal                           | 1                              | 0                   | 1                   | 0                       | 1                            |
| <b>Total</b>                                  | <b>13822</b>                   | <b>2083</b>         | <b>15905</b>        | <b>2684</b>             | <b>13221</b>                 |

## National Court—Average Duration of a Case in 2020

| Case   | Cases Completed | Average Disposal Rate (In days) |
|--|-----------------|---------------------------------|
| Civil Appeal                                 | 113             | 1408                            |
| Crimes - Bail Application                    | 408             | 188                             |
| Crimes - Fraud & Corruption                  | 200             | 969                             |
| Crimes - Fraud & Corruption Bail Application | 10              | 305                             |
| Crimes - General                             | 880             | 1526                            |
| Crimes - Juvenile Track                      | 2               | 30                              |
| Criminal Appeal                              | 12              | 2222                            |
| Election Petition                            | 3               | 698                             |
| Election Petition - Originating Summons      | 3               | 466                             |
| Human Right - Originating Summons            | 20              | 397                             |
| Human Rights                                 | 13              | 208                             |
| Human Rights Applications                    | 311             | 616                             |
| Human Rights - Complaints                    | 122             | 112                             |
| Human Rights - Miscellaneous Proceedings     | 6               | 1698                            |
| Human Rights - Own Initiative                | 13              | 3                               |
| Human Rights - Writ of Summons               | 53              | 829                             |
| Lawyer Admission                             | 12              | 22                              |
| Matrimonial Causes                           | 16              | 1162                            |
| Miscellaneous Proceedings                    | 47              | 1607                            |
| Originating Summons                          | 585             | 1043                            |
| Will Probate Administration                  | 110             | 398                             |
| Writ of Summons                              | 1396            | 1684                            |
| <b>TOTAL</b>                                 | <b>4451</b>     | <b>1202</b>                     |

## Appeals in the National Court and their Outcomes

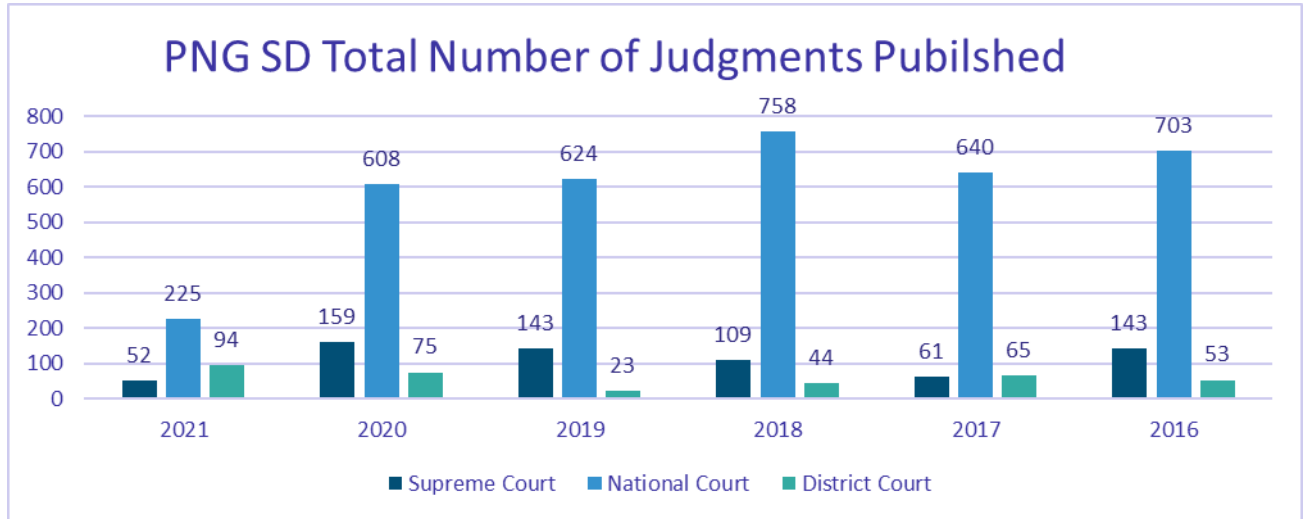
| Appeals  | Appeals Listed | Over-turned | Percentage of Appeals Overturn |
|----------|----------------|-------------|--------------------------------|
| Criminal | 21             | 2           | 10%                            |
| Civil    | 133            | 2           | 2%                             |



## Published Judgements

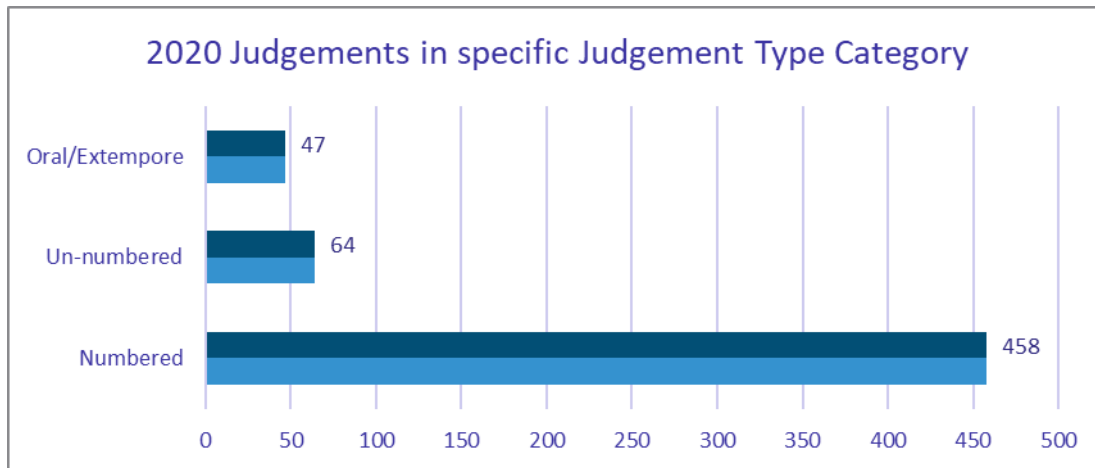
Judgement published in the year 2020 depends on the number of judgments received from Judges. The Judgments are both Civil and Criminal and can be of 3 different types which are: Numbered (Published), Un-numbered (Unpublished) and Oral (Extempore) Judgment.

Below is the graph of the total number of judgments in each category received:



From the graph, one can see that the total number of Judgments delivered in 2020 is: 840 which includes both Civil and Criminal which are either numbered, un-numbered or oral/Extempore.

Below is a graph breaking up the 2020 judgments into each specific category:



### Supreme Court Judgements

There are a total of 162 Supreme Court Judgements published on PNG SD website which are all available in PacLii too.

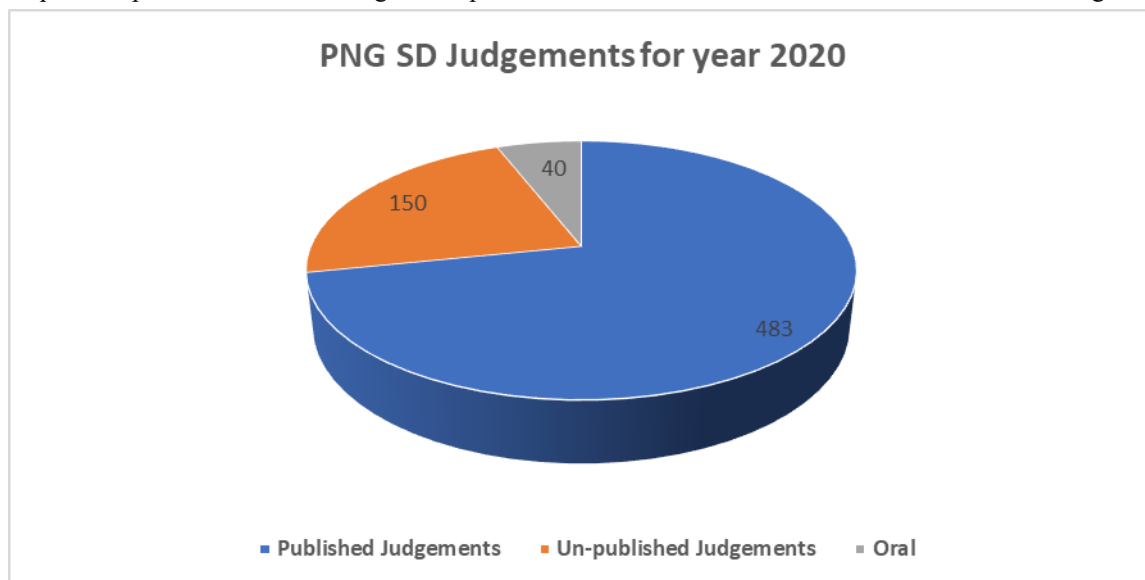
There is zero availability of Un-published Judgments received, unlike last year, 2019. Therefore, all 162 are published judgments.

### National Court Judgements

There are a total of 673 National Court Judgements published on PNG SD website. 483 are published judgements which can be found in PacLii too, 150 are un-published judgments found only in PNG SD and 40 are Oral Judgements (Extempore) which are Criminal Sentencing Judgments in National Court and found only on PNG SD.

| YEAR | PUBLISHED JUDGEMENTS | UN-PUBLISHED JUDGEMENTS | ORAL | Total Judgments Published |
|------|----------------------|-------------------------|------|---------------------------|
| 2020 | 483                  | 150                     | 40   | 673                       |

Graphical representation of the Judgements published in National Court in 2020 in the PNG Sentencing Database.



### District Court Judgements

In 2020, a total of 77 Judgements were published on PNG SD website which is a huge improvement from last year (2019) whereby only 17 judgements were published. These judgments are all published judgments received from District Court.

# Summary of the Court Performance

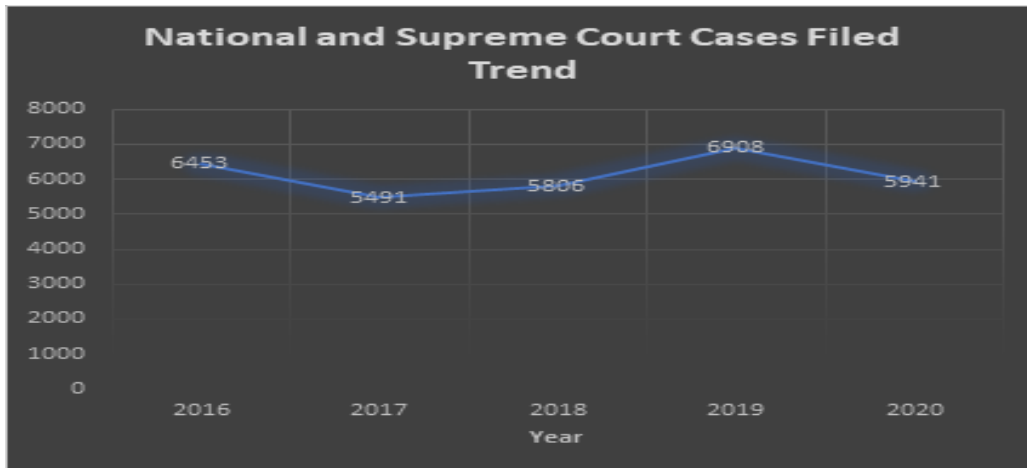
## Observation on the Court Caseload

A total of 493 cases were filed in the Supreme Court. Of these, 394 cases were finalized during the reporting year. A clearance rate of 80% was achieved.

On the National Court side, 5448 cases were filed in year 2020 compared to 6908 cases filed in year 2019. A total difference of 1,460 decrease in filing of new cases. An overall clearance rate of 82% was achieved during the reporting year.

The case disposition rate for the reporting year for the Supreme court is 80% and 82% for the National Courts.

The decrease in the number of cases being filed is due to the Pandemic.



**Trend of the National and Supreme Court Cases filed since year 2016**

## **National Courts—Legal Aid**

In the reporting year, the Public Solicitor’s office continues to provide legal aid, but figures were not available at the time of the Report. According to the PNG Legal Training Institute, 256 cases were registered in 2020 during the legal aid (pro-bono) period.

## **Judicial Complaints Committee**

The Judiciary Complaints Committee is a Committee created within the Judiciary and it is one of the many initiatives undertaken by the judiciary to ensure fair, transparent and efficient delivery of judicial services in Papua New Guinea.

The main function of the Committee is to receive, assess and investigate complaints from either internal or external lodged against the conducts of the employees of the judiciary (both judicial and non-judicial) and make recommendations to the appropriate authorities within the Judiciary for appropriate actions. The Committee is supported by a Secretariat who administers the day to day operations of the Judiciary Complaints Office and also executes the tasks assigned to them by the Committee.

The Judiciary Complaints Procedure Brochure explains thoroughly the establishment of the Committee, the types of complaints to lodge, the correct way of lodging complaints and sets out the internal investigation procedures on how to investigate complaints made against Court staff. The procedure enables the complaints to be investigated in a transparent, fair, effective and efficient manner without compromising established disciplinary procedures.

## **Percentage of Complaints Received Concerning a Judicial Officer**

During the reporting year, 14 complaints were registered against a judge. Out of the 5941 Supreme and National Court cases filed, the percentage of complaints as against number of cases was 0.24%.

## **Percentage of Complaints Received Concerning a Court Staff Member**

Nine complaints were registered against a court staff member. Out of the 5941 Supreme and National Court cases filed, the percentage of complaints as against number of cases was 0.001%.

## **Average number of cases per Judicial officer**

The number of judicial officers in 2020 was 45. A total of 25,915 Supreme and National Court matters pending. The average number of cases per Judicial Officers was 598 in 2020.

## **Average number of cases per court staff member**

The number of court staff in 2020 was 1,106. The average number of cases per court staff members was 24.33 in 2020.

## **Annual Reports Published for Public**

All annual judges’ reports will be accessible through National Judiciary website on this link [www.pngjudiciary.gov.pg](http://www.pngjudiciary.gov.pg)

### **Court Services Information**

The PNG Judiciary website provides a significant amount of information on its services. Of particular interest is the page on Interpreting Services including sign interpretation. Interpreting services is part of the National Court Registry. We provide and facilitate Interpreting services to all National and Supreme Court sitting throughout the Papua New Guinea, without cost. Our services are in the following language areas: *Tok Pisin, Hiri Motu* and *tok ples* (upon request by the parties and directed by the Court). We facilitate in providing interpreters for sign language upon request by the client.

### **Publication of Judgements**

The Court publishes judgements on the internet (through PacLII and the PNG Sentencing Database). Please refer to the earlier part of the Report for specific details.

## **Areas in Need of Improvement For Improved Court Performance**

**There are a number of impediments that continue to affect the timely disposition of cases.**

Areas impeding the court's effective and efficient performance in 2019 were reported in that year's report. What is reported here are the same areas, with an updated report highlighting whether there has been much change in the status.

**The areas needing attention are:**

1. 21st Century Higher Court Structure
2. Judges simultaneously serving two High Courts
3. Inadequate number of Judges
4. Case backlog in both Courts
5. Unexecuted Bench Warrants in criminal cases
6. Reserve judgments
7. Judge-time in Court
8. Lack of cohesion in the development of case law and local jurisprudence
9. Statutory and administrative remedies not exhausted before using the Court as a last resort
10. National Court's mediation services under-utilized by the parties
11. Under-resourced Constitutional offices of the Public Prosecutor, Public Solicitor and Solicitor-General
12. E-Courts or Electronic Courts for the Judicial System in Papua New Guinea

### **21st Century Higher Court Structure**

The plan is to create a three tier court system by legislative reform—composed of the National Court, Appeal Court and the Supreme Court to reflect a court structure that is in keeping with the 21st century. The reform is intended to achieve quality of justice to the people through an appeal process heard by judges who only sit in one tier of the court. Although there was no legislative action in 2020, in the meantime, the objective is being achieved administratively by allocating specific judges to sit in the Supreme Court.

### **Judges simultaneously serving two High Courts**

In order to reduce backlog matters in the Supreme and the National Courts, it is imperative that the Judges concentrate on a Three Tier Court structured system (21st Century Courts). Judges focus and continuity are adversely affected when they spread efforts between the 2 courts. Judiciary in its capacity to achieve its performance objectives continue to be hampered by the Judges simultaneously serving in 2 high courts. In the meantime, the Chief Justice has issued directions pursuant to Order 13 of the Supreme Court Rules 2012 for the 14 most senior Judges of the Judiciary to serve in the Supreme Court of Papua New Guinea. The other Judges and Acting Judges will serve in the National Court.

### **Inadequate number of Judges**

As was reported previously, the statutory ceiling on the number of Judges does not allow the courts to reduce the case backlogs in both the Supreme and the National Courts. With the growing population estimated at 8.9 million people, a ratio of a judge alone serving an estimated 217, 00 people demonstrates the need to address this issue as a matter of priority. The seriousness of the issue is also highlighted by the growing number of cases being filed and the total caseload carried forward every year. The need to increase the number of judges is self-evident.

**Case backlog in both Courts**

In the reporting year, a total of 1158 Supreme Court cases and a total of 24,653 National Court (Criminal and Civil) pending matters were brought forward to 2020. The urgency of dealing with backlog is being fully felt by the Judiciary. Computerising the court process and investing in physical infrastructure are some ongoing measures to address this problem.

**Under Resourced Constitutional Offices**

Courts do not operate in a vacuum. Lack of resources available to the Public Prosecutor, the Public Solicitor and the Solicitor General will impact on the ability of the courts to go on circuits. Without the lawyer's cooperation, cases progression to finality in a timely manner will be affected.

**Unexecuted Bench Warrants in criminal cases**

In the reporting year statistics showed a total of 6078 outstanding bench warrants were brought forward to year 2021. This is an area where dialogue between the courts, the Police and other relevant public stakeholders and court users will assist to reduce this large number.

**Reserved Judgements**

Throughout 2020, cases in both the National Court and Supreme Court are being monitored closely to encourage judges to give priority to timely delivery of reserved decisions. In order to improve on disposition of the reserve decisions, delivery of ex-tempore and short adjournments for decision is being encouraged.

**Underutilized mediation services**

Mediation is an option available to resolving disputes apart from the courts. The position reported in 2019 remains the same in 2020. Mediation has the potential to assist the Judges and the Courts to substantially increase their case disposal if an increasing number of Judges refer an increased number of cases to mediation. For the few cases referred more than 60% have been fully resolved. This means no appeals or reviews saving a trial Judge and Courts time and that of appellate Judges and Courts. Parties and courts need to utilize this service by increasing the number of cases referred to Mediation. Judges are being encouraged to refer matters for mediation to assist deal with the backlog of cases.

## **Commonwealth Magistrates and Judges Association Conference (CMJA)**

The annual Commonwealth Magistrates and Judges Association Conference which PNG hosted last year, did not occur in 2020 due to the Pandemic.

The CMJA Conference is held annually to:

- promote better understanding amongst judicial officers from all parts of the Commonwealth of judicial independence issues, and to explore approaches to those issues in different Commonwealth countries;
- promote greater awareness amongst the magistrates and judges of the Commonwealth, of international treaties and law relating to the development and access to justice, and to consider the practical application of that body of law; and
- enhance networking within the Commonwealth Magistrates' and Judges' Association on judicial developments



# Strategic Administration

## Chief Justice Calendar

The judicial strength depends on the budgetary support we get in implementing our objectives and how much is paid to the judiciary every calendar month.

We are optimistic that going electronic will help us increase our case disposition rate and reduce our backlogs and promote access to justice all at the same time. This will enhance the maintenance of the Rule of Law and Good Governance.

The Calendar is a guide and strict adherence to it depends on budgetary and other unforeseen factors as to whether a circuit will be mounted or not. Lawyers are a big part of the success of a Court Calendar. Their availability is dependent largely on budget support as well.

The Calendar has information on judicial administration, Judges postings, Court Registries and Sub-registries in the provinces.

## International Aspects

Due to the Covid-19 Pandemic there was only one international engagement attended to by the Chief Justice in Doha, Qatar in February 2020. This was the High-Level Meeting of the Judicial Integrity Network. The outcome was the Doha Declaration on Judicial Integrity. The objective of the meeting was to create a platform to promote judicial integrity and provide avenues to address challenges to judicial integrity.

## Partnership and cooperation with overseas Judiciaries and institutions:

Since 2009, the PNG Judiciary has developed strong partnerships with a number of overseas jurisdictions and institutions to share expertise and channel assistance. Amongst the different forms of engagement with overseas bodies, the PNG Judiciary has successfully introduced an MOU scheme. The following are the existing MOUs previously reported on.

## Memorandum of Understanding (MOU)

- MOUs now exist with the Federal Court of Australia for technical cooperation and appointment of Federal Court Judges to the PNG Courts
- MOU with the Supreme Court of Queensland for technical cooperation and exchange of personnel
- MOU with the Solomon Islands Judiciary for technical cooperation and appointment of PNG Judges to the High Courts of Solomon Islands
- MOU with the Judiciary of Nauru for technical cooperation and appointment of a PNG Judge to the newly established Court of Appeal in Nauru
- MOU with the Judicial Commission of New South Wales for technical assistance in developing the PNG Sentencing Database
- MOU with the Judicial Commission of New South Wales for ICCSD development
- MOU with the Sheriff's Office in Sydney for support services for the PNG Sheriff's Office
- MOU with the University of South Pacific, Vanuatu Campus School of Law, to run PACLII and for technical cooperation in judgment writing, editing and publication
- MOU with the University of Queensland (for legal research support for Judges)
- Discussions are underway for PNG to enter into an MOU with Samoa (for judicial assistance from PNG, including the appointment of PNG Judges to the Court of Appeal of Samoa) and Kiribati.

The Judiciary as a member of the common law jurisdiction has the obligation to enhance the rule of law.

## **Judicial Appointments in 2020**

### **Re-Appointments**

- Hon. Justice Kassman was reappointed for another term (3 years).

### **New Judges Appointments**

- No new judges were appointed in 2020.

### **Defence Force Judges**

- Justice Paniel Mogish, Waigani
- Justice Allen K David, Waigani

### **Overseas Judicial Appointments**

- Justice Gavara-Nanu, Waigani - Court of Appeal—Solomon Islands
- Justice Kirriwom, Wewak - Court of Appeal—Nauru

### **Federal Court Judges who are present only for Supreme Court week**

- Justice Berna Collier
- Justice John Logan, RFD

### **Court User Forum (CUF)**

Last year there were two CUF, one in Hula, Central province and the other in Kimbe, West New Britain Province. However, there was no CUF this year due to the Pandemic.

### **Court User Forum Way Forward (2020 -2022)**

CUF is one of the special projects set under the Judicial Administration Manual with its ultimate goal focused on identifying improved processes across the indictable case stream to ensure cases are progressed in a timely, just and cost effective and affordable manner.

The CUF have so far contributed to the core business of the service areas aligning with the Government's priorities and objective by:

- improving service delivery through business innovation;
- continuing to develop innovative models for frontline justice service delivery; and
- continuing to encourage innovation that leads to improved service delivery efficiencies including red tape reduction.

In order for Court User Forum to achieve its visions and objectives for the years 2020 and beyond the following has been recommended;

- A similar program for the Supreme and National Court Registry and Corporate Service has been approved in Management Meetings and will be implemented starting next year. It is a venue to make awareness to the public and other court users of the developments and reforms happening within the courts. Judges are invited to use this avenue to address certain issues they think appropriate to do so.

## Office of the Registrar

The *Constitution* states that the Supreme and National Court are “Superior Court of Records” The dispensation of justice is based on Court records, whether it be documentary, audio or visual recordings and electronic information. The quality of justice that is administered is dependant on a number of factors, one of which is an effective Court information management system. The court registries determine how the Court processes and proceedings are to be captured, recorded and processed to be made available to Judges and Court users for effective decision making.

The judiciary has now embarked on implementing E-Court databases to support the Judges work in dispensing court cases effectively, efficiently and in a timely manner. A modern ICT-based and court case management system has become a critical and important tool for securing, processing and effective dissemination of court information to improve the court performances and standards. A good background information of the work of the Registry with regards to the various databases it manages can be found in the 2019 Report of the Judges at <<https://www.pngjudiciary.gov.pg/court-library/publications>>.

### **Integrated Electronic Case Management System (IECMS)**

Whilst the ICCSD is focused on the criminal track the IECMS focuses on the civil track and will replace paper-based case records and the Case Docketing System Database (CDSDB). A report of its history can be found in the 2019 Report of the Judges at <<https://www.pngjudiciary.gov.pg/court-library/publications>>.

The IECMS has the capability to electronically file cases, automate judicial processes, view hearing schedules and check the availability of judges. It can also allocate new cases to judges based on various criteria, support information exchange among stakeholders, generate forms and certificates from predefined templates, monitor case activities with an interactive data visualization toolkit, track cases across the justice institutions (law enforcement, courts, corrections) and ensure the security and confidentiality of sensitive legal data.

IECMS is well established in Waigani and is ready to be rolled out to all provinces. Regional workshops and training of judges is planned for 2021. Dashboard for IECMS is currently under development.

There are minor adjustments to IECMS protocols which is an ongoing activity of the office of the Registrar.

The following are ongoing activities Office of the Registrar will undertake to ensure that IECMS is fully operational:

- Registry Officers Training & Roll Out;
- Court Users Training;
- Public Awareness;
- IECMS Kiosk;
- Upgrade PC;
- Testing Pilot IECMS on Cloud;
- IECMS Training;;
- IECMS Publicity;
- Implement Civil Cases via IECMS on Cloud ;
- IECMS Installation on Premise;
- Transfer IECMS Data from cloud to Premise Server;
- IECMS Roll-out to Provinces;
- Complete Staff Recruitment for IECMS;
- Test Disaster Recovery from IECMS from Back Up;
- PC Upgrade from IECMS Users;
- Complete Training Room Set up

## **Integrated Criminal Case System Database (ICCSD)**

In criminal case management, a collective approach among key players in the criminal justice system in collecting, processing and sharing case information is necessary to address impediments in the criminal justice process. ICCSD is a Law and Justice Sector (LJS) wide initiative of the National Coordination Mechanism (a meeting of heads of LJS, including the courts) involving the Police, the District Courts, the National Courts, Supreme Court, Correctional Services and Community-Based corrections of the Department of Justice and Attorney-General.

ICCSD is a modern technology based tracking system that can track a criminal case as it makes its journey through the criminal justice process. ICCSD is ready to be rolled out across the country, but it faces a number of challenges which include:

- Lack of trained and dedicated manpower in all other agencies;
- Lack of resources in all other agencies;
- Lack of IT resources in all other agencies; and
- Lack of cooperation from all other agencies.

## **Case Docketing System Database (CDSDB)**

The Judiciary uses the CDSDB for the administration and management of Supreme and National Court case records. It is a case-tracking system database that tracks each case from filing to disposition and it provides access to digital case file records of each case, which can be accessed, searched and downloaded. The current statistical information relating to a court case is generated from this database. The Judiciary has forward plans to gradually phase out CDSDB database and replace it with modern Integrated Electronic Case Management System that is now been developed and piloted this year.

Be that as it may CDSB continues to function adequate. Issues of missing data arises from time to time but it is addressed as and when it arises by the CDSB team.

The main challenge so far is to develop as dashboard for convenient access of CDS, and this is currently under development.

## **Database (DB)**

The Registries database unit is working on standalone databases which will capture and update relevant data in identified business area. This data will all be merge into one in due course. Some of these databases under development are:

- Archives database;
- Sheriff database;
- Staff appraisal database;
- Staff attendance database; and
- Interpreters and attendant's database.

## **Training**

Training is critical with the introduction of new technology so that stakeholders will be able to understand the technology and use it well, thereby achieving the overall intention of introducing the technology.

Training for Judges, Judges Associates and Registry Staff is planned for 2021.

## **PNG Sentencing Database**

This website contains sentencing data for various criminal cases imposed by the Supreme and the National Courts. The PNGSD is based on the Judicial Commission of New South Wales Judicial Information Research that reduces unjustified disparities in criminal sentencing. The database provides the Judges with statistics, similar cases and other reference materials to assist with their decision making.

The PNG Sentencing Database (PNGSD) is a web-based system which is based on the highly successful and widely recognized Judicial Information Research System developed by the Judicial Commission of NSW. PNGSD has been designed and developed by engineers in New South Wales Judicial Commission and adopted by the Papua New Guinea Courts. Hence, it is a joint project of the Supreme and National Court of Papua New Guinea and the Judicial Commission of New South Wales and was recently adopted from a court case management system used in New South Wales.

This information will then be used by Judges as a guide when handing down sentences in order to maintain Consistency and Uniformity in handing down of sentences to prisoners in line with the sentencing trend.

The PNGSD when fully established will be the one website where users will have access to the Court Judgments, the Laws and Rules of Courts, including the recent laws passed and recent case Judgments, the sentencing statistics and the relevant international Courts of Appeal. The PNGSD is an online source of primary, secondary and statistical reference material for judicial officers, the courts, and the legal profession and government agencies that play a role in the justice system. PNG SD contains case law, legislation, sentencing statistics, court references and other information.

### **PNG Sentencing Database Website**

The Papua New Guinea Sentencing Database (PNGSD) Website is divided into two major databases:

*The Papua New Guinea Sentencing Database (PNG SD);*  
(URL: <https://pngsd.judcom.nsw.gov.au/> )

*The Papua New Guinea Data Collection System (PNG DCS).*  
(URL: <https://pngdcs.judcom.nsw.gov.au/> )

## **Mediators**

The Registrar of the Supreme and National Courts maintains a list of Accredited Mediators in line with Section 7B (6) of the *National Court Act* (Ch.348) which is publicly available upon request.

The total number of Accredited Mediators registered as at the commencement of 2020 is comprising:

Fully Accredited Mediators:

Internal:               **15**  
                              7 Judges  
                              8 Magistrates  
                              9 Private Full Time Mediators ( Locals )

External (Overseas): **17**

Provisionally Accredited Mediators:

                              10 Judges  
                              32 Magistrates  
                              48 Lawyers and Others.

## Office of the Sheriff

In Papua New Guinea, the *Sheriff Act* governs the operation of Sheriff Office. On 17 April 1975, the Registrar of the National Court was appointed and gazette as the Sheriff, thereby determining that the same person holds the two offices (Sheriff and Registrar) concurrently. The Sheriff is appointed by the Head of the State and both he and his officers are responsible for enforcing Judicial Orders.

Much of the information on the roles and functions of the Sheriff can be found can be found in the 2019 Report of the Judges at <<https://www.pngjudiciary.gov.pg/court-library/publications>>.

There was a total of 351 files that were identified for enforcement. Of these 188 matters are active and 163 matters have expired. There was 20 matters for Auction. Judgment debt to be collected stands at K53,629 530.11.

Covid 19 delayed most of the activities in 2020. The Sheriff Officers most often face resistance during eviction exercises especially when Police assistance is lacking.

One of the critical role performed by the office of the Sheriff during the Pandemic is to conduct security checks of persons coming in and going out of the court precincts. This is important especially during a time of the Pandemic where compliance with the “Niupla Pasin” Covid Protocols have to be observed so that normal court business continues without much interruption.

The Provincial Sheriff Office are located in each National Court House and service the following areas:

- Port Moresby Sheriff officers cater for Central, Gulf, Western and Milne Bay.
- Kokopo National Court House Sheriff officers also cater for Bougainville, Manus and New Ireland.
- Kimbe National Court House.
- Lae National Court House Sheriff officers cater for East and West Sepik respectively.
- Madang National Court House.
- Kundiawa National Court House.
- Goroka National Court House.
- Wabag National Court House Sheriff Officers cater for Southern Highlands Province and Hela Province respectively.
- Mt Hagen National Court House Sheriff officers cater for Jiwaka Province at this juncture.



## Papua New Guinea Centre for Judicial Excellence

The PNGCJE was established in 2010 under a Memorandum of Understanding between the Chief Justice of the Supreme and National Courts, the Chief Magistrate and the Secretary for the Department of Justice and Attorney General. The Centre is primarily responsible for the delivery of continuing judicial training and development for Judges, Magistrates, Court Staff and officers of the Law and Justice Sector.

The PNGCJE ought to be regarded as a useful adjunct to the work of the National Judicial System which includes the Supreme Court, the National Court and the other Courts established under Section 172 of the *Constitution*, including the Village Courts. The primary work of the Courts is to dispense justice and to facilitate timely access to justice for all. While PNGCJE's role may not be viewed as coming directly within the central functions of the Courts, yet the trainings it provides and coordinates for the judiciary in knowledge, skills and attitudes, indirectly contribute to the overarching constitutional function, which is the dispensation of justice.

The three key objectives for the establishment of the PNG Centre for Judicial Excellence are to:

- promote judicial excellence;
- promote professional development and training; and
- foster an awareness of judicial administration, developments in the law, and social and community issues.

Core values that underpin the professional development activities of the Papua New Guinea Centre for Judicial Education are:

- excellence in the professional integrity and competence of Judicial Officers and Court Staff;
- excellence in dispensation of justice by the Courts according to international best practices;
- high level of competency, skills and experiences of Judicial Officers and Court Staff; and
- maintenance of democracy, good governance, and the Rule of Law by the judiciary.

## Organisational Capacity

In February 2020, PNGCJE engaged the new Deputy Executive Director, Mr Sam Kaipu, OBE, along with two new employees. The new staff members consisted of a Driver and an IT Officer. The Centre had also successfully recruited two (2) more Program Officers towards the middle of the year to take on the role of coordinating trainings for Lay Judicial Officers, and Regional Judicial Officers.

The newly recruited staff members include:

- Mrs. Stacey Levakia-Wali (**Regional Program Officer- Judicial**),
- Ms. Emmah John (**Program Officer – Magisterial Services**),
- Mr. Harry Vai – **IT Officer**, and
- Mr. Kori Tolpari – **Driver**.



## Office and Training Facilities

The PNGCJE now operates from a new office building within the National and Supreme Court premises in Waigani, Port Moresby. The major construction of the office space was completed in 2020 under a budget of K3 million. The new office building consists of:

- an office space for the 21 PNGCJE employees, and
- a training facility with a capacity to accommodate more than 50 participants.

The new office is fully equipped with built-in IT equipment, air conditioning, workstations, furnitures and a kitchenette. The building also houses five (small) office rooms for the Executive Director, Deputy Executive Director, and the three (3) managers, while all other staff members have been allocated office cubicles for their workstations.

The office also has a conference room and three storerooms to house the PNGCJE web servers, IT equipment and other miscellaneous office items.

Since mid-2020, the training room has catered for 16 training workshops, plus several other senior man-



agement meetings and activities by the NJSS Corporate and Registry divisions.

## Judicial Education and Training

Despite the onset of Covid 19 and its drastic effect on the delivery of service, the PNGCJE managed to successfully complete a total of 16 training programs. The Centre strives to successfully complete a total of 16 training programs. The Centre strives to maintain high standards of facilitating judicial education programs and is grateful for the highly skilled trainers who facilitated the training activities in 2020.

The table below outlines the training activities conducted in 2020.

| <b>Date</b>           | <b>Training Program</b>                                    | <b>Recipients</b>  |
|-----------------------|--|--|
| 1) 31 January         | <b>Seminar on Judges and the Media</b>                     | Judges   |
| 2) 19 June            | <b>Judicial Protocol</b>                                   | CJ and DCJ Support Staff                                   |
| 3) 29 June – 3 July   | <b>Judicial Orientation</b>                                | Judges   |
| 4) 22 July            | <b>Financial Literacy</b>                                  | NJSS Staff   |
| 5) 13 – 14 July       | <b>Customer Service Training</b>                           | Magisterial Service staff<br>(Secretaries/Admin. Officers) |
| 6) 17 – 21 August     | <b>Advanced Training of Trainers</b>                       | NJSS staff   |
| 7) 24 – 28 August     | <b>Public Inservice Induction</b>                          | Magisterial Service staff                                  |
| 8) 25 August          | <b>Gender Equity and Social Inclusion (GESI) Awareness</b> | PNGCJE staff   |
| 9) 3 – 4 September    | <b>Training of Trainers (Trafficking in</b>                | NJSS staff   |
| 10) 9 – 11 September  | <b>MS Excel Training</b>                                   | Magisterial Service staff                                  |
| 11) 15 September      | <b>2<sup>nd</sup> GESI Awareness</b>                       | PNGCJE staff   |
| 12) 22 – 24 September | <b>Leadership, Professionalism and Personal Training</b>   | NJSS Managers and Supervisors                              |
| 13) 6 – 7 October     | <b>2<sup>nd</sup> Financial Literacy Training</b>          | NJSS staff   |
| 14) 20 – 21 October   | <b>Human Rights Awareness (Southern Highlands)</b>         | NJSS staff   |
| 15) 25 – 26 November  | <b>Human Rights Awareness (Highlands)</b>                  | NJSS staff   |
| 16) 8 – 9 December    | <b>Human Rights Awareness (New Guinea</b>                  | NJSS staff   |

## 2020 Highlights

Some of the key programs are highlighted in detail below:

### Judges and the Media Seminar

The seminar was held in Port Moresby for the Waigani-based judges of the National and Supreme Courts. It was facilitated by former Australian radio broadcaster and lawyer, Mr Jon Faine, who shared experiences on issues relating to Judges, the courts and the media as encountered in some parts of the world. The program engaged the judges in lively interactive discussions about the latest developments in technology and the media, and how these developments could be used to positively improve delivery of justice. Judges and participants who attended the seminar included:

- Chief Justice Sir Gibbs Salika,
- Justice Jim Wala Tamate,
- Justice Colin Makail,
- Justice Royale Thompson,
- Justice Hitelai Polume-Kiele,
- Justice Teresa Berrigan,
- Justice Jeffery Shephard,
- Justice Nicholas Miviri,
- Justice Danajo Koeget,
- Dr. John Carey, JP, Ph.D.



### Visit to MOMASE Region by PNGCJE Directors

PNGCJE Executive Director Dr. John Carey, JP, Ph.D and Deputy Executive Director Mr. Sam Kaipu, OBE visited National Court and District Court Judicial officers and staff in Lae, Madang and Wewak in February 2020. The purpose of the visit was to discuss training needs and look at how PNGCJE can play a part in designing and delivering trainings for Court staff at the three provincial centres. PNGCJE's commitment to assisting the Lae, Madang and Wewak courts in securing training was stressed during the visits.



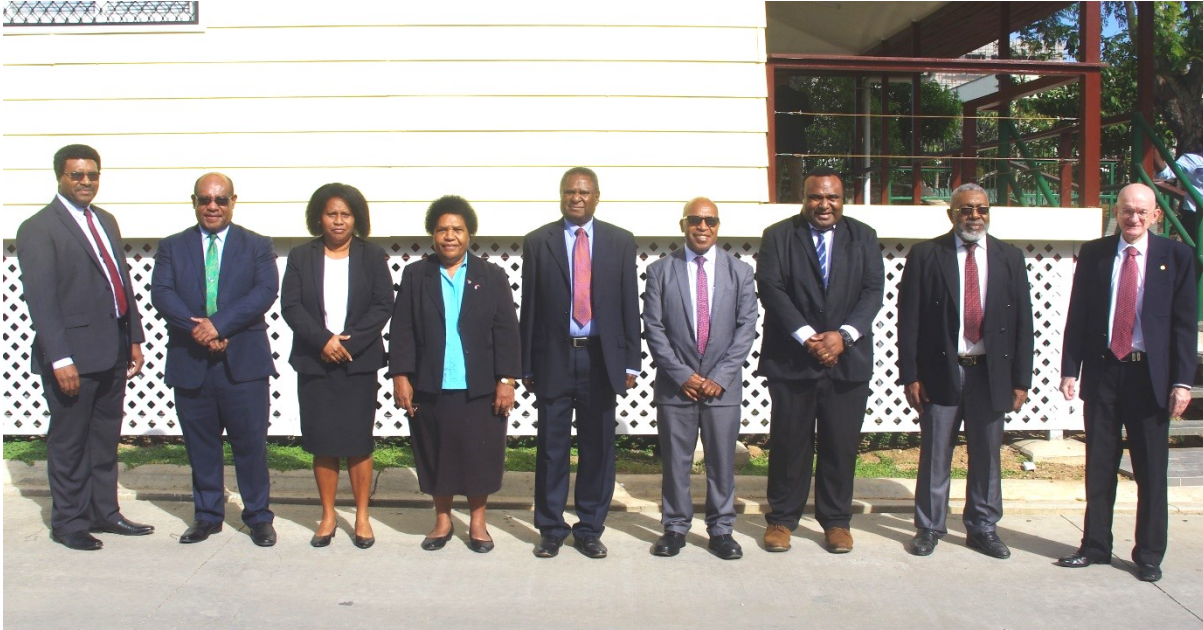
### Human Rights Awareness

Held in partnership with the Pacific Judicial Strengthening Initiative, the Human Rights Awareness program was aimed at raising awareness on how to identify and address issues of human rights abuse in PNG. PJSI Human Rights Advisor, Dr. Carolyn Graydon and UPNG Law School Lecturer, Ms. Tapora Isorua, were the facilitators for the awareness.



### Judicial Orientation

The primary objective of the orientation program was to assist newly appointed judges with their transition from the bar to the bench by facilitating the development and refinement of skills, knowledge and attitudes necessary for effective and efficient judicial duties. The newly appointed Judges who attended the week-long training included, Justice Regina Sagu, Justice Dr. Vergil Narokobi, Acting Justice Paul Tusais, Acting Justice Elizabeth Nalaih Suelip, and Acting Justice Paulus Mapa Dowa.



**Photo: Participants in the opening morning of the 2020 Judicial Orientation Workshop: Justice Colin Makail, Acting Justice Paul Tusais, Acting Justice Paul Tusais, Acting Justice Elizabeth Suelip, Justice Regina Sagu, Chief Justice Sir Gibbs Salika, Acting Justice Paulus Dowa, Justice Vergil Narokobi, Justice Nicholas Kirriwom and Justice David Cannings.**

### **Gender Equity and Social Inclusion Awareness**

Gender Equity and Social Inclusion is all about maintaining a respectful and inclusive working environment where people feel supported and confident in carrying out their duties. The PNGCJE has included in its annual training calendar, a program on Gender Equity and Social Inclusion to promote a healthy, respectful and inclusive work environment for all. Two awareness workshops were conducted in 2020 to introduce the Public Service GESI Policy, GESI Principles and Values and Approaches to Mainstreaming GESI in the workplace.

### **IT Infrastructure and Training**

2020 has seen a tremendous improvement in the set up of the PNGCJE IT infrastructure. The training room is now fully equipped with two access points for wireless internet connection, 20 training laptops, state-of-the-art polycom camera with audio-visual system, and satellite internet connectivity to enable live video conferencing and webinar sessions direct from the PNGCJE training room.

The IT unit has further configured three virtual servers and set up Wifi network inside the training room for a more reliable and secure internet connectivity.

With the procurement of a Zoom licence, the Centre was able to host its first online training through face to face and online learning approach in August 2020. The Advance Training of Trainers workshop was conducted remotely via Zoom by PJSI's Dr. Livingston Armytage and had participants joining in from Australia, and the Bahamas.



### **Pacific Centre for Judicial Excellence**

In 2021, the PNGCJE will focus more on adopting the global practice of conducting training activities remotely through its Learning Management System and other online conferencing platforms. With the recruitment of two Regional Program Officers completed and the final regional officer to be employed in 2021, the PNGCJE is now in a better position to take on a more competitive role as a judicial education provider.

For more information regarding the activities conducted by the PNGCJE in 2020 you can refer to the PNGCJE website at [www.pngcje.gov.pg](http://www.pngcje.gov.pg).

## Office of the Secretary

The Judiciary's administrative function is provided by the National Judicial Staff Services established under the *National Judicial Staff Services Act 1987* (as amended). The key divisions within NJSS are Finance, Human Resource, and Infrastructure Development, composed of Buildings and Information Technology.

The performance of NJSS is measured against a number of Key Results Areas, which are set-out in the Supreme Court & National Court Corporate Plan 2018-2022, Building 21st Century Courts of Excellence.

### Judges Support Services

The 2019 Judges Annual Report covered the launch of the Kacific 1 satellite from Cape Canaveral, Florida on 17 December 2019. It was witnessed by a delegation from the Judiciary headed by Justice Kirriwom.

The project was initiated in 2019 as a response to the lack of available internet connectivity options to support the roll out of electronic case management, and other e-Court services that were being developed. The funding for the project was approved in April 2020 and deployment of the satellite network has taken just over one year to implement, during a period when the country was in the grip of the COVID-19 pandemic and logistics became very difficult. However, we have overcome the challenges that were confronted, and 27 dishes of varying sizes have been commissioned and operational in 21 provinces including NCD. Spare dishes are being stored for installation in Finschaffen, Mendi, Bereina and Bialla once new court buildings have been constructed in those locations. The Satellite Network brings reliable connectivity to the Judiciary, and the opportunity for staff in Waigani and across the Provinces to work together as one team. Connectivity brings us closer; communication across the network enables us to move forward together. With the network in place, the e-Judiciary team will be able to deploy a portfolio of e-services to support the delivery of justice across Papua New Guinea, and to the wider Pacific region.

An initial trial dish was installed at the Judiciary on the 21<sup>st</sup> March 2020 and was configured to receive data on 23<sup>rd</sup> March.

The official launch of the Judiciary satellite network by the Chief Justice took place on 23 October 2020 and was witnessed by the Prime Minister, the Commissioner of Police, and the Secretary for NJSS, Mr Jack Kariko.





## Corporate Services

The objective is to provide quality, effective and efficient corporate services to the Judiciary.

In 2019 the NJSS commenced entering data into the new JSIMS database, which replaced the old PGAS.

There are two modules of the JSIMS - Finance and Human Resources. At present the Chief Justice receives weekly Financial Reports from the Director for Finance. The Finance Module of the JSIMS will ensure that the current reporting is via a system that the Chief Justice will be able to log on and retrieve tailored reports on the Judiciary's financial status at any given time. At this point in time, the system is still being populated with the various financial information needed to get it fully operational by the end of 2021. The Finance Division is working with our Project Managers to ensure all available financial information is up to date for when the system is eventually up and running. For the HR module of the JSIMS, the Human Resources Division are now in the process of data collection and cleansing and by the end of July/early August NJSS should have the required HR data information inputted into the JSIMS for the staff to have easy access to all HR queries pertaining to their employment in the NJSS. The HR Module will also make it easier for the Management to retrieve tailored Reports on the status of HR matters like staff numbers etc.. One of the main achievements has been the identification of a JSIMS Systems Administrator to assist with the roll out and implementation of the JSIMS - this officer will be able to ensure that the users of the JSIMS will be trained up on how best to utilise the system. Even though we mentioned that there have been Finance staff trained in the use of the Finance Module, the follow up training have been greatly hampered by the Covid-19 pandemic. With the JSIMS Systems Administrator position about to be filled, we can look forward to having more of our staff trained in the know-how and utilising of the systems in time for when we fully operationalise it by the end of 2021.

The NJSS also successfully completed the conveyance of 85 blocks of land at Maba street in the suburb of Tokarara to initiate its Home Ownership Scheme. At this point in time, we are now working on what needs to be done for the civil works for the land we have purchased. At the same time, we are now working on ensuring that we have the proper Home Ownership Scheme Policy in place before we can launch the Scheme for our staff.

## Court Records and ICT

The objective is to provide a user friendly court records and information services, state of the art information, communication and technology services to support the operation of the judiciary.

The main highlight apart from the launching of the satellite reported previously was the successful cabling of the Manus National Court. It provides A Network LAN and MPLS for Manus Sub-registry. This project was completed within the time specified on the work-plan and timeline and connect Manus to PNGJUDUCIARY domain and our private WAN or MPLS link. The photo below is the 42 RU Rack Installed in Manus Registry to house Telikom mode, Network Routers, Switch and cables.



The Information Technology Division of NJSS had a retreat on the 21-23 of February 2020 to discuss and finalise their vision, values and goals for their 2020- 2024 IT Strategic Plan. This was done and ITD now have a draft of their IT Strategic Plan which they have now finalised the final draft and ready to present to the CMIT Committee for endorsement before it can be presented to JCM for support.



Photo: IT Team Retreat at Loloata with Secretary NJSS opening the IT Team Retreat

### **Law and Justice Sector Collaboration**

The objective is to facilitate collaboration between the Judiciary and other Law and Justice Sector government agencies and stakeholders.

The NCM or the National Coordinating Mechanism for the PNG Law & Justice Sector is the principal avenue in which collaboration across the LJS occurs. The Chief Justice and the Secretary are members of the NCM with all other law and justice sector agency heads of Departments and State Agencies. The collaboration of the sector through the NCM has seen our National Criminal Process Improvement Project (NCPPIP) initiate and now developing the Integrated Criminal Case System Database (ICCSDB). Justice Iova Geita is the Chairman of the Chief Justice's Committee on NCPPIP. NCM meetings are held as and when necessary and usually called by the Chairman of the NCM, who is the Attorney General & Secretary for Justice. The NCM aims to meet once in every month of the year.

The Tari Law and Justice Sector Housing project oversaw some significant building projects. They are constructed under an MOU between NJSS, and Hela Provincial Government signed on the 30th of April 2018.

NJS was represented by the Secretary and the Hela Provincial Government was represented by the Provincial Administrator.

Under the MOU, Hela Provincial Government was to provide the funding while NJSS managed the funds.

The current contract is for K5.8m. Two contractors were chosen to build 8 houses including a Judges residence.

Under this contract, the Hela Provincial gave K4m so far and still waiting for the balance. When the Provincial government provides the balance, the project will be completed.

The houses when completed will be shared with other Law and Justice Sector agencies in the province other than the Police and Correctional Service.

From the 8 houses under the current contract, 8 houses including the Judges Houses is complete and the other four houses are 90% complete.

## Human Resources

The Human Resources Division is responsible for the administration of all personnel matters of the Judiciary, the Registry and Corporate Services by 23 staff. The services provided includes salary administration, recruitment/retirement etc and training. The total staff of the National Judicial Staff Services as of 1st January 2020 was 1044 and by 31st December 2020 was 1106 excluding Judges, an increase of 62 during the year. In 2020 49 staff left NJSS whilst 107 new staff were recruited to replace those left or where need arose.

## Finance

The Judiciary is the third arm of the Government of Papua New Guinea: Section 99(2) of the *Constitution*. It is guaranteed constitutional independence in the preparation and presentation of its annual budget estimates to the National Executive: Sections 209 2A and 2B, Section 210 (3) and Section 225 of the *Constitution*.

The Chief Justice submitted the Judiciary's estimate for 2020 a total of K513.9million. This consists of K224.9million for recurrent and K269million for capital works. However, it was appropriated through the Appropriation Bill a total of K233, 925,000 million which is made up of K153, 925,000 for recurrent and K70million for developmental. Considering the reduction in the developmental budget, many projects including infrastructure developments such as the construction of the Regional Court Complexes in Lae, Mt Hagen and Kokopo did not get implemented as the K70million was appropriated for Waigani Court Complex.

The major expenditure items for 2020 were as follows:

| No | Expenditure Item  | Amount              |
|----|---|---------------------|
| 1  | Personnel Emoluments  | K81, 687,800        |
| 2  | Goods and Services<br><br>Travel (Mostly circuit related court travel) K22.2million. It should be noted that circuit costs depend on the location. On average it cost over K100,000 for a 21days court circuit cost for all NJSS parties. | K62,541,339         |
| 3  | Utilities, Rentals and Property<br>• Utilities K10.8 million  | K15,885,100         |
| 4  | Capital Formation<br>• Construction, Renovation & Improvements K11.2million   | K38,311,578         |
| 5  | Waigani Court Complex   | K70,000,000         |
|    |   | <b>K268,431,810</b> |

# Court Buildings and Facilities

## High Court—Construction and Upgrade

Several court building and facilities were under construction in 2019. The report presented here is the status of each project as it stands at the end of the reporting period. It must be emphasized that the *Constitution* requires both the National Court (s 166(5)) and the Supreme Court (s 162(4)) to exercise their jurisdiction in court, which can only happen in a well kitted building structure, built to specifications.

## Waigani National Court Complex (WNCC) Project

The WNCC is a facility of national significance suitable for accommodating the proposed Judicial structure of the courts into three jurisdictions of the National Courts, Court of Appeal and the Supreme Court. The facility will provide an additional 14 courtrooms, 31 new Judges Chambers, new registries and supporting court services and an administration wing to house the new Registries. The project is anticipated to be completed by 2022.

### Key Milestones and Status at the End of the Reporting Period

- Building is approximately 54 % completed on site but the project is delayed due to funding constraints since construction.
- Currently under-funded and the Main construction contract phase is 18 months behind program due to lack of project funding.
- PGK90.0 million GoPNG budget appropriation for 2020 has been received (annual appropriation & Supplement budget).
- The WNCC Project has recently been split into two stages to reflect the funding amounts granted through the 2020 GoPNG budget
- Stage 1 – The Registry, Administration, and Arrivals wing has a target completion date of mid-2021, subject to funding.
- Stage 2– the remainder of the project, including the main Courts Building, has a target date for completion in 2023, subject to the timing of future funding tranches.



**Aerial view from South-West showing construction progress as at 31/12/2020.**



**Aerial view from North showing construction progress as at 31/12/2020.**

**Centre for Judicial Excellence Training Building:**

The new office building was successfully completed in 2020. The building has been built under a budget of K3 million. It contains a training/conference room that is able to accommodate up to 100 people. It is fitted with modern conference equipment and built-in IT and multimedia equipment for interactive learning. The office accommodates more than 20 PNGCJE staff.



**PNGCJE Building – Main Entrance (Exterior)**



**PNGCJE Building – Training Room (Interior)**



**PNGCJE Building – Conference Room (Interior)**



**PNGCJE Building – Staff Toilets (Interior)**

## **Bialla Court House, West New Britain Province**

The proposed court house will accommodate the functions of both lower (MS) & higher courts (NJSS). Functions include Court Rooms, Registry Offices, Chambers for Judges and Magistrates and officers for support administration functions including the sheriff, Information Technology, a library and the Archives office. A cell block and a guard house. Civil works including carparks, driveways, remandees and drop-off zone will undertaken.

### **Progress - Key Milestones/Status at the end of the reporting period**

- Construction progress of new court complex is about 57% completed;
- Main Structure completed, awaiting roof framing installation.
- Project Funded by NJSS (GoPNG) at total cost of K8.2m
- Expected to be completed 2021-Q4



**Proposed Bialla Court House – 3D Artist Impression**



**Proposed Bialla Court House – Front Entrance (57% completed)**

## **Wewak Court Complex, East Sepik Province**

The Wewak Court Complex is a new building and will be on two levels including a mezzanine floor. The complex will accommodate all National & District Court functions including all support services, Public Solicitor and State Prosecutor.

### **Progress - Key Milestone/ Status at the end of the Reporting Period**

- Goldbell/ Construction engaged at K18.2m for the construction of Wewak Sub-Regional Court House;
- Project funded by NJSS (GoPNG)
- All structural framing completed.
- Roof Work progressing.
- Work about 66% completed.
- Expected to be completed in November 2021.



**Wewak Sub-Regional Court Complex – Main Site Entrance**