

# Judiciary Annual Report 2009-2010

Period covered in this report – 1<sup>st</sup> July, 2009 to 30<sup>th</sup> June, 2010.



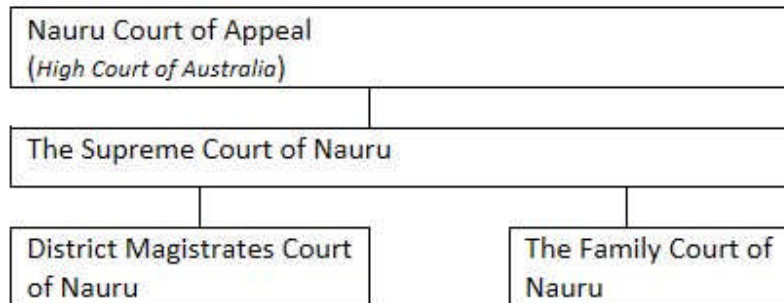
## **Introduction**

The function of the National Judiciary is to provide an independent, impartial and effective judicial system that is transparent and easily accessible to all people in Nauru. The role of the National Judiciary is to uphold the rule of law by resolving disputes between the Legislature and the Executive and between the citizens of the Republic of Nauru.

The National Judiciary is comprised of the Court of Appeal, the Supreme Court, the District Magistrates Court, and the Family Court. These were established by the National Constitution, Appeals (Amendment) Act 1974, the Courts Act 1972, and the Family Court Act 1973.

Also most of what had been said in the 2008-2009 report remains true for the 2009-2010 financial year.

## Nauru Courts' Structure



The High Court of Australia is the Court of Appeal established by the Appeals (Amendment) Act 1974. The Appeal Court hears appeals from the decisions of the Supreme Court. There is no Appeal to the Appeal Court during 2009-2010 financial year.

The Supreme Court was established and constituted by the National Constitution and the Courts Act 1972. It has unlimited original civil and criminal jurisdiction. It hears appeals from Criminal and Civil judgments, rulings, orders and decisions of Magistrates' Court, the Nauru Family Court and Quasi-Judicial Tribunals such as the Nauru Lands Committee. It hears appeals as of right or case stated in its Criminal and Civil Jurisdiction. By sections 21, 22, and 23 of the Appeals Act 1972, the Supreme Court also has power to review any decision of the District Court. The Supreme Court also has inherent jurisdiction on Judicial Review Applications.

The District Court was established and empowered by the Courts Act 1972. It is a court of limited summary jurisdiction.

It can deal with Civil disputes in which damages claimed up to \$3,000.00.

It can hear or try Criminal Offences where a maximum penalty of up to 10 years imprisonment is prescribed. But can only impose penalty for one offence of up to 3 years imprisonment maximum or sentence of a fine not exceeding \$3,000.00.

The Maximum aggregate sentences of imprisonment and fine which may be imposed by the District Court on any one person for two or more offences are:-

(a) Imprisonment for 6 years; and  
thousand dollars.

(b) Fines totaling 6

## The Family Court

The Family Court was established, constituted and empowered by the Family Court Act 1973. The Family Court has concurrent jurisdiction with the Supreme Court for matrimonial causes, adoption of children under the Adoption Ordinance, maintenance under the Maintenance Ordinance, guardianship under the Guardianship Act. However, the Family Court is barred from dealing with cases in which the original action was instituted in the Supreme Court unless leave is granted by the Supreme Court.

## Judicial appointments

The judges of the Appeal Court were the Judges of the High Court of Australia. The judge of the Supreme Court during the period of this report was Chief Justice Robin Millhouse QC. The Resident Magistrate was Eliesa Tuiloma who took over (as of March 2010) from Nelson Laurere during that time.

## Lay Magistrates

The Lay Magistrates appointed prior to the period of the report and were exercising jurisdiction during the earlier part of the report period were:-

- |                   |                   |
|-------------------|-------------------|
| 1. Jonny Taumea   | 4. Rosevena Bop   |
| 2. David Gadaraoa | 5. Elvani.Teimits |
| 3. Kelson Tamakin |                   |

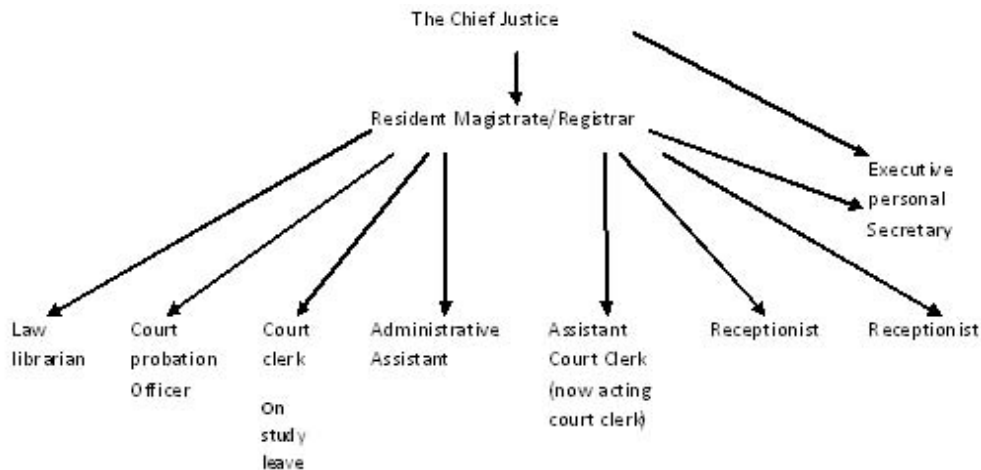
## Family Court

The members of the Family Court appointed prior to the period of the report and were exercising jurisdiction during the earlier part of the report period were:-

- |                           |                  |
|---------------------------|------------------|
| 1. Peter (David) Gadaraoa | 5. Melita Gioura |
| 2. Annette Cook           | 6. Ivy Cook      |
| 3. Palik Agir             | 7. Ruth Ephraim  |
| 4. Tyran Capelle          | 8. Susie Scotty  |

## Judiciary Establishment Chart

### PRESENT STRUCTURE



### Names of key personnel

Members of staff during the period of report were:-

### CURRENT ESTABLISHMENT

Designation of Office	Salary Level	Local Salary (Per Annum)	Local Fortnightly	Names
Chief Justice	8.2	\$ 8,673	\$ 333.60	Vacant
Resident Magistrate & Registrar Supreme Court	8.1	\$ 8,172	\$ 314.32	ELIESA TUILOMA
Clerk of Courts	5.3	\$ 6,670	\$ 256.53	TEIMITSI ELVANI
Law Librarian	5.2	\$ 6,419	\$ 246.90	DAOE RAELYTTA
Administrative Assistant	4.3	\$ 5,919	\$ 226.91	Vacant
Probation Officer	3.2	\$ 5,167	\$ 198.73	COOK ANNETTE
Executive Secretary	3.2	\$ 5,167	\$ 198.73	DENUGA TRACEY
Assistant Clerk of Court	2.2	\$ 4,666	\$ 179.47	Vacant
Receptionist	1.1	\$ 3,915	\$ 150.58	DEMINGAUWE

				AVENISSA
Receptionist	1.1	\$ 3,915	\$ 150.58	QUADINA IRENE

### **Department Vision**

To have a just and peaceful society, where an independent, impartial Judiciary delivers justice effectively and efficiently and supported by an ethical legal professionals.

### **Department Mission**

Deliver Justice that is fair, visible, tangible and accessible to all.

## **ORGANIZATIONAL STATEMENTS**

### ***OUR VALUES***

#### **INDEPENDENCE & ACCOUNTABILITY**

We act solely in the interests of justice and are transparent and fair in all our decision-making.

#### **PROFESSIONALISM & ETHICS**

We behave ethically and professionally

#### **LEADERSHIP & SERVICE**

We lead by understanding and meeting the needs of those to whom we provide service.

#### **EXCELLENCE & INNOVATION AND CREATIVITY**

We promote a culture of learning and encourage personal and professional excellence in innovation and creativeness to achieve better end results.

#### **PUBLIC CONFIDENCE & TRUST**

We value the trust place in us by the public and at all times act in a manner that will maintain their confidence.

### **Objectives**

## **PURPOSE**

The Restructuring of the Republic of Nauru Judicial Department should enable: - the Department to properly address its judicial and administrative function, judicial employee's to have incentives to perform better, the judiciary not only to be heard but also seen to be an effective and independent arm of the Republic

## CONSIDERATION

### FUNCTIONS

The function of the Judicial Department is to provide independent, impartial, effective and unquestionable integrity judicial system that is transparent and easily accessible to all people in Nauru. The role of the Judiciary is to rightly interpret and uphold the rule of law and also resolve disputes between the different arms of the Republic and including the citizen of the Republic of Nauru. This role is conducive to the social and economic development and stability of the Republic.

### BACKGROUND INFORMATION

The Judiciary is established under the Part V (Arts. 48-57) of the Constitution. Those Acts of Parliament that further and directly elaborates the functions of the Courts are the Appeals (Amendment) Act 1974, the Courts Act 1972, the Civil Procedure Act 1972, the Criminal Codes Act 1899, Criminal Procedure Act 1972, Criminal Justice Act 1999 – 2009 and the Family Court Act 1973. Court's role are to a large extent elaborated further by all Acts of Parliaments that stipulates penalties, fines or remedies for persons found guilty of breaches.

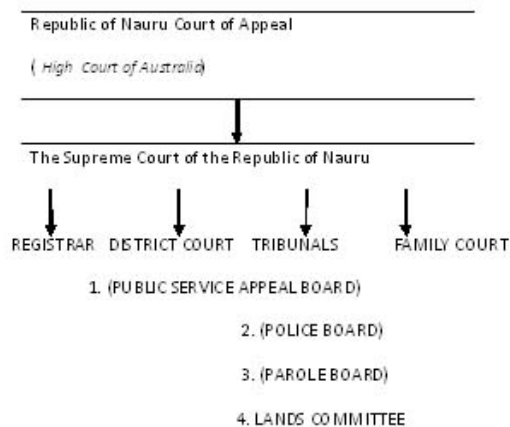
The Judiciary is comprised of the Court of Appeal (High Court of Australia), the Supreme Court, the District Court, and the Family Court. Quasi – Judicial bodies like the Public Service Appeal Board, Police Appeal Board, Parole Board and the Land Appeal Committee are some of the bodies that also have some legal alignment to the Courts.

The current administrative structure of the Court system has been in place since independence despite the increase in number of cases and complexity of legal issues coming before the courts.

The drawing up of proposals for the policy directions of the judicial services before the Chief Justice and its adoption by Government is important and need the daily routine work of senior officials for the purpose of efficiency and consistency of services. In addition, the Court Act 1972 allows for the appointment of an additional staff; a Deputy Registrar, to assist the Registrar in the performance of his judicial duty under the Act.

Proper recordings and filings of court documents are important for the purpose of maintaining our own jurisprudence, recordings and for the smooth and comprehensive dispensation of cases. This role is a fundamental to ensuring that the law follows the circumstances of what actually takes place in the country rather than continuously adopting those of other countries. That is to say, when we adopt a common law rule relating to any dispute, it must be tuned to our circumstances at all times and not to be directly applied. This function still remains outstanding and requires urgent attention. The three (3) current court officers are all suited to be trained to support the facilitation of court hearings and determination processes and the initial filing of court documents.

## Court Structure



## NAURU COURT OF APPEAL

The High Court of Australia is the Court of Appeal of the Republic established by the Appeals (Amendment) Act 1974. The Appeal Court hears appeals from the decisions of the Supreme Court.

## THE SUPREME COURT OF NAURU

The Supreme Court was established and constituted by the Constitution and the Courts Act 1972. It has unlimited original civil and criminal jurisdiction. It hears appeals from civil judgments, rulings, orders and decisions of Magistrates' Court, the Nauru Family Court and quasi-judicial Tribunals such as the Nauru Lands Committee. It hears appeals as of right or case stated in its Criminal and Civil Jurisdiction. By sections 21, 22, and 23 of the Appeals Act 1972, the Supreme

Court also has power to review any decision of the District Court. The Supreme Court has inherent jurisdiction on Judicial Review Applications.

The Supreme Court is composed of only one Judge; the Honourable Chief Justice, position even though the Constitution allows for more than one to be appointed.

### THE DISTRICT COURT OF NAURU

The District Court is established under the Courts Act 1972. It is a court of limited summary jurisdiction.

It can deal with civil disputes in which damages claimed to up to \$3,000.00.

It can hear or try criminal offences where a maximum penalty of up to 10 years imprisonment is prescribed. But can only impose penalty of up to 3 years imprisonment maximum or sentence of a fine not exceeding \$3,000.00 for one offence and compensation for injuries or damage sustained after conviction from a criminal offence within \$10,000 or less.

The Maximum aggregate sentences of imprisonment and fine which may be imposed by the District Court on any one person for two or more offences at one trial are: - Imprisonment for 6 years; and Fines total 6 thousand dollars and criminal compensation for injuries or damages within ten thousand dollars.

### THE FAMILY COURT OF NAURU

The Family Court is established under the Family Court Act 1973. The Family Court has concurrent jurisdiction with the Supreme Court for matrimonial causes, adoption of children under the Adoption Ordinance, maintenance under the Maintenance Ordinance, guardianship under the Guardianship Act.

However, the Family Court is barred from dealing with cases in which the original action was instituted in the Supreme Court unless leave is granted by the Supreme Court.

### THE REGISTRAR

The Registrar has both the administrative and judicial role of the Judicial Department. The duties of the Registrar are outlined under Sections 6 & 7 of the Court Act 1972 and the Civil Procedure Act and Rules 1972.

### THE TRIBUNALS

Tribunal powers are those assigned to it by the relevant Acts. The Public Service and Police Board deal primarily with disciplinary offences under those relevant Acts. The Lands Committee and the Parole Board deal with those matters assigned to them under their relevant Acts. Their processes have expanded over



the years and the rule of natural justice is amongst the considerations that have been entrenched into their systems. These processes are the aspects of the Tribunal functions which Courts have jurisdictions to oversee.

### JUDICIAL FUNCTIONS

The judicial functions of the Court can only be done by the Hon. Chief Justice, Resident Magistrate, Lay Magistrates and members of the family Court.

#### Work Load of cases

Data only for comparative purpose from year to year.

#### District Court

Types of Cases	Cases filed	Disposed	Pending	Fines ordered	Amount pending payment	Total amount paid
Criminal Cases	163	103	69			
Bench Warrant						
Committal Warrant						
Civil	1		1			
Fees & Fines				4,253.00+		4,253.00
<b>Family Court</b>						
Matrimonial		2	6			
Adoption		4	14			
Maintenance		1	5			
Guardianship		1	1			

#### Supreme Court

The chief Justice travels in from Kiribati three times during the financial year for the Supreme Court sitting (September 2008, December 2008, and March 2009).

Types of Cases	Cases filed	Disposed	Pending	Income	Pending	Total Amount
Criminal Cases	6	5	1			
Criminal	0	0	0			

Appeal cases						
Civil Action	15	3	12			
Land Appeals	3	0	3			
Fines						
Fees						
Total Amount						

## ADMINISTRATIVE FUNCTIONS

The administrative function is fully performed by the Resident Magistrate in his other role as the Registrar of the Supreme Court. Limited delegation may be effected to any Court staff depending on the complexity of issues and each job descriptions of post holders.

In the absence the Court Clerk; now on study leave, the Assistant Court Clerk takes on the responsibility of the Court Clerk. Therefore she is now the Court Clerk and Assistant Court Clerk not only to the District Court, but also to the Supreme Court, Registrar Chambers and the Family Court.

Delegate of duties at the lower level has received some resistance as there is no extra duty allowance given. Delays and poor performance is therefore inevitable in this kind of scenario.

In the absence of an Administrative Officer appointment, drawing up of drafts judicial management structure and development policy for the decisions of policy makers, financial management, general administrative management and staff management are all within the responsibility of the Registrar/Resident magistrate.

The restructure of the judiciary recommends the elevation of the post of Administrative Assistance to that of the Administrative Officer. The Administrative Officer will be responsible to the Registrar and Deputy Registrar and will take on financial management, general administration and staff management. This will greatly relieve the Registrar to concentrate more on the hearings and passing decisions on preliminary Civil Judicial matters, working with Deputy Registrar and CJ on policy Administration of courts and training of Lay Magistrates, Members of the Family Court and Court staff.

Further, the restructure aims to reclassify the existing positions to their right categories and elevate existing positions to provide incentives for better professional work performance.

# IMPLICATIONS

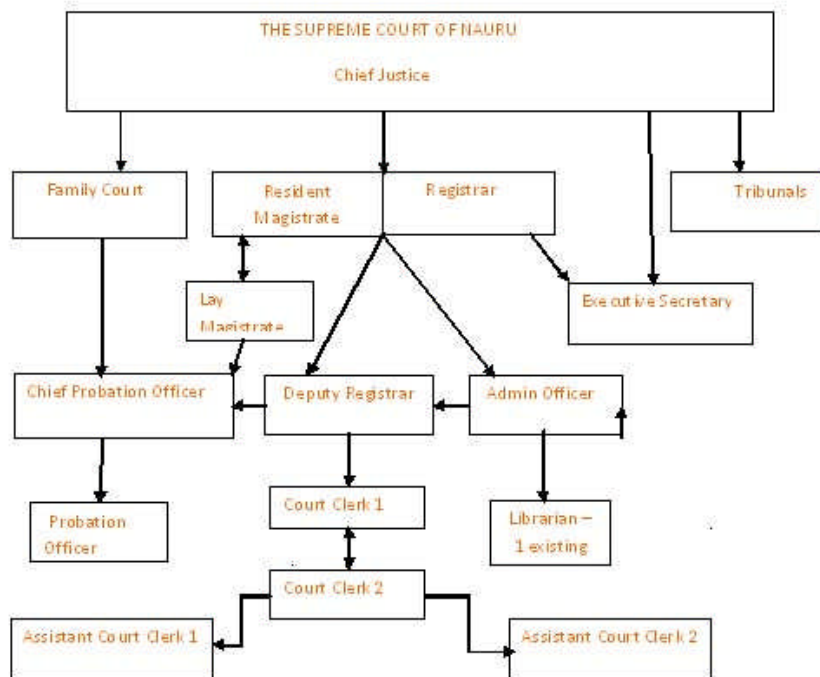
## MANPOWER IMPLICATION

The Department has been able to meet its general judicial obligations to some measurable extent. Portfolios needing higher skills and specialization are normally left attended by the general categories of staff. This uneven performance of obligations by the judicial support staff has plunged our Judicial Service for sometime and this structure is made to address that shortfall.

In addition this proposed structure is to ensure that Nauru is able to maintain its financial and social services through public confidence generated from the unequivocally fair and just services of the Judicial Department. This restructure proposal will also address once and for all the management and operational problem that continuously hinder the smooth and quick operation of the judicial service sector. (Please refer to our existing establishment and proposed positions below)

## PROPOSED RE-STRUCTURE

The structure also represents the chain of command or the flow of directions or instructions from the top down.



The restructure of the judiciary recommends the elevation of the post of Administrative Assistance to that of the Administrative Officer. The Administrative Officer will be responsible to the Registrar and Deputy Registrar and will take on financial management, general administration and staff management. This will greatly relieve the Registrar to concentrate more on the hearings and passing decisions on preliminary Civil Judicial matters, working with Deputy Registrar and CJ on policy Administration of courts and training of Lay Magistrates, Members of the Family Court and Court staff.

Further, the restructure aims to reclassify the existing positions to their right categories and elevate existing positions to provide incentives for better professional work performance.

### FINANCIAL IMPLICATION

The Budgetary Allocation to the Judicial Department in 2009 - 2010 was \$100,402 (\$41,838.00-salary local).

This proposed structure should increase the number of staff within the Department by three and reclassify the existing categories to the court nomenclatures and scales. Additional to that would be the local salary of the Resident Magistrate.

The extra cost of this proposal will approximately be \$37,277 (i.e. all local salary components). These three new positions could all be localized at this stage. However, Deputy Registrar position will need to be filled by a legally qualified person and this position could be included into a new proposal for external funding. If externally funded then the local salary component may need to remain.

It is envisaged that under this present restructure, the government should be able to make some savings now and into the future. Savings is to be envisaged in the form of an increase in revenue collected from proper calculations and facilitation and processing of all court documents and proper filing fees, court bonds forfeitures and hearing fees. The exact amount could not be pegged at present but hope to calculate that for future references. (Please refer to table of proposed establishment below)

### PROPOSED ESTABLISHMENT

Designation of Office	Salary Level	Local Salary (Per Annum)	Local Fortnightly	Names
Chief Justice	9.1	\$ 8,924	\$ 343.23	Vacant
Resident Magistrate & Registrar Supreme	8.1	\$ 8,172	\$ 314.32	Tuiloma BS Eliesa

Court				
Deputy Registrar	7.2	\$ 7,672	\$ 295.08	Vacant
Clerk of Court 1	5.3	\$ 6,670	\$ 256.53	Gabrisa Hartman
Clerk of Court 2	5.3	\$ 6,670	\$ 256.53	Teimitsi Elvani
Law Librarian	5.2	\$ 6,419	\$ 246.90	Daoc Raelytta
Administrative Officer	5.3	\$ 6,670	\$ 256.53	Cecil Baston
Chief Probation Officer	5.3	\$ 6,670	\$ 256.53	Vacant
Probation Officer	4.3	\$ 5,919	\$ 226.91	Annette Cook
Executive Secretary	3.2	\$ 5167	\$ 198.73	Denuga Tracey
Assistant Clerk of Court	2.2	\$ 4,666	\$ 179.47	Demingauwe Avenissa
Assistant Clerk of Court	2.2	\$4666	\$179.47	Quadina Irene

Further, this restructure helps reclassify existing positions to proper court official nomenclatures and elevate some of the positions categories for better and professional work performance incentives.

### NEW PROJECT PROPOSALS

The Resident Magistrate's new locally fixed salary of 8.2 is \$8,673.00 per annum. Note that there was an Inter-sub-head Transfer to replenish subhead 203 for salary till November. 2010.

The establishment should be altered to cater for the position of DEPUTY REGISTRAR (Director) with margin scale of 7.2 which amounts to \$7672.00 per annum.

Re-classification of the designation of Administrative Assistant - is elevated to ADMINISTRATIVE OFFICER from scale of 4.3 - \$5,919.00 to Scale margin of 5.3 at \$6,169.00

Classification of the Executive Secretary is also upgraded to EXECUTIVE PERSONAL ASSISTANT from scale of 3.2 of \$5,167.00 to 5.3 at \$6,169.00.

The two positions of Receptionist are renamed and elevated to ASSISTANTS COURT CLERK from scale of 1.1 - \$3,915.00 to 2.2 - \$4,666.00.

Court Equipments: -

- 1 x Photocopier Machine –
- 4 x computers -
- 4 x printers -
- Workstations (3 x desks and 3 x chairs) -

New Transport for court documents servicing –

### POLICY IMPLICATIONS

The Judicial Department Restructure is triggered by public complaints on the poor management of the Judicial Department Registry systems, lack of proper court records filings and general lax attitude of support staff towards their work.

The proposed positions arise out of the complexity of legal issues to be addressed by the court. In addition, there is also an expectation that the administrative role, though equally heavy are to be addressed by the limited human resources on the ground.

The changes in the administrative structure is required to compliment the work that the Ministry is tasked to perform in order to achieve its national goals set under the NSDS.

This restructure is also necessary to align the administration of the judicial department services to be in line with the general restructure process within the Public Services.

### LEGISLATIVE IMPLICATION

There is no legislative change required under this proposed restructure as the Deputy Registrar position referred to under the s6 & 7 of the Court Act 1972 will now be in place 38 years after the Court Legislation was passed.

There should be no need to amend any law for the rest of the created positions.

### RECOMMENDATIONS

The proposal for tradeoffs and/or abolition/disestablishment and creation of all the above referred positions with appropriate pegged salary is highly recommended for better and efficient Judicial Department Services. The end result of this proposal is; to enable the Judicial Department to uphold its Goal; “Upholding the Respect of Law and Order and Accessible Justice for All in Nauru!”

### Core Activities

The Court House’s core function is to ensure that Acts, Ordinances, Law both, adopted and International as local are in tact for Parliament to enact and civil society to abide with.

THE REGISTRAR – who is the Head of Department/ Chairman of the Family Court/Resident Magistrate of the Supreme Court of Nauru.

CLERK OF COURT – Moderates administrative documents both with Court and with Registrar for proceedings in the Court

EXECUTIVE SECRETARY – Chief Justices PA and the Registrar's Secretary with Supreme Court matters and documents.

ADMINISTRATIVE ASSISTANT – The vacant post is now covered by a transferred staff from Immigration and was recommended by the Resident Magistrate the month of July 26<sup>th</sup> 2010.

LIBRARIAN – Responsible to the up-date of catalogues and legal books for the Chief Justices and other legal persons.

PROBATION OFFICER – involves with the Justice Dept, Community Work, and juvenile matters.

AUDIO RECORDER – technical use of office plants e.g. Computers expertise and Recording of proceedings and transcripts on 'requested' Court sittings.

TYPIST CLERK – All documents, for Family Court, Lay Magistrate, Registry, Registrar documents are typed by the Typist

COURT ORDERLY – The Court Orderly has been attending to the requirements from Document receiving and Summons to be delivered. To attend all Court sessions and other duties as directed by the Registrar.

The key personnel are our/the Head of Department – Registrar. He is involved with everything at work level which is ethically in line with the Public Service Act, of lawful and legal nature. Correspondences other HODs as with the Chief Secretary and other Head of Department with Public Service, Secretariat of the Justice Department, Minister for Justice, Parliament, and the Law Society. As the Resident Magistrate, he/she is in charge and responsible for the Administration part and the proper running of function(s) within the Court House. The Clerk of Court assists with submission of complete documents relating to proceedings in the Supreme Court and District Court matters. He is also the Chairman of the Family Court and is the inter-personal contact when dealing with legal Practitioners for Land, Civil matters. The capacity or hierarchy of the Court Registrar performs the duties of the Chief Justice except when he is on the island.

The department's vision is to have a just atmosphere. Surrounded with respect to titles/designations and all matters that is asked of the Court to process and entertain. Up-gradation of Court standard of conduct and modern facilities with communication at all times.

Our mission is to ensure that all Law & Order are adhered to and served in a manner that is broad in standard and deep in breadth.

Training of staff and attendance is consistent and professional. Expenditure is balance with Revenue for the one whole year .Preparation of Supreme Court matters are a must for everyone for procedural of Rules and Statues.

### **Achievements from 1<sup>st</sup> July '09 – 30 June, 2010.**

Training of five Lay Magistrates and eight Family Court members by the PJDP. Two computers were stationed from the Taiwan donation in December, 2009. (1 in the Library and 1 in the Front Registry)

All 4 Inter-subhead Transfers throughout the fiscal year were approved. Practice fees a revenue for the Judiciary were received for most Lawyers/Pleaders for Renewing/to the able to Practice on the Bar and were as well Practice Certificates. Opening of the legal year – function took place successfully which the recent one was In March, 2010

There were six subheads that were increased in the Head 44 – Judiciary. They were 255-Travel Business – used for Chief Justice’s travel to preside with the Supreme Court Sittings and due to the changes of routes and fares. Subhead 204 – salary local was increased due to the post of Executive Secretary which was vacant and now occupied by self. Subheads 301,

The incentive of introduction local salary for the position of Resident magistrate and Chief Justice to view implementation (through new project) The last administrative matter attended to from last month till date was assisting the Administrative Assistant alongside with Clerk of Court in preparations to the Annual Report for 2009/10, which is now for the Head of the Department to overview.

Change of Head of department. Necessity of having a Head of Department who can discipline and liaise with approach on pleaders to respect and follow Practice Notes protocol in system should be respected and consistent as with the functional activities and duties of all Judiciary staff. Capacity Building in training of person (s) holding responsible positions to adhere to Court requirements and standards.

The Court normally every year has a special festivity ‘Opening of the Legal year! This event is held during the first session annually which commemorates the Chief Justice presiding over the Supreme Cases in his first trip. Other functions which are seldom met and valuable to us in adaption of different policies is when the resident Magistrate expires the term or time depending on Contract. Not having a departmental transport is an obstacle. Delivery of Court Summons is not consistent The Court Act 1972’ subsection: ..... states ‘all documents would be served by Police officers.



There was a workshop by a PJDP consultant for a week which involved mainly the training of Lay Magistrates. & Family Court members to enlighten them the adequate acquirements of how to serve the functions of the Court as a whole. Other members of the Prosecution, Justice Department were at the workshop to understand the commonalities and procedures overhaul. Included in the Annual Report is more advanced training for personnel as recommended in the last HOD Meeting early in July at the Parliament Committee Room.

It was observed that there was a 'go by the book' that is Lawyers were strictly to adhere to proper administer and cooperate with the Court in dealing with Civil, Land and all other documents channeled. As with the remaining filing fees which are for seven files, reminder to the legal representative(s) concerned is deliberated.

From lawyers submission of proper documents for staff to under the recognition of documents will improve an impact to the duties of all staff. With the pattern where action is a norm and all personnel having the capability of covering all their designation(s) and service of professions in the Court House

The Resident Magistrate has undertaken all the objectives emphasized in the NSDS departmental requirements for the Judiciary sector and has had implementation .One of the NSDS milestones is mainly to have the Judiciary, Police and Justice Department is to have a relationship with their ethical documents and procedures to one commonality. Therefore, to suffice this, is to have a strategy which is to do with the attributes of each and every personnel working for these three departments to be initiated and followed for the consensus and understanding of the Public Service policies.

All three short term milestones in the NSDS has been action by the Head of Department in the month of July, which will ensure a swift target to strategies and outcomes required by the Government in achieving their diverse goals.

The month of July 2010 will show difference in the Projected 2010/11 Budget. This is due to the up-grading, reclassification and re-structuring of the Judiciary department drafted by Resident Magistrate as Head of Department.

Creation of new positions in the Judiciary will meet International standard(s), and establish an atmosphere where the society is tangible.

## **Special Projects Outcome**

### **Training**

Last year formal training for the newly appointed Lay Magistrates and members of the Family Court was organized and conducted from the 26<sup>th</sup> to 30<sup>th</sup> January, 2009 by Enoka Fereti Puni from the PJDP with the assistance of the Resident Magistrate. 5 Lay Magistrates and 7 members of the Family Court attended. (2 Police Prosecutors and about 5 members from Human Rights group also attended as observers).

Informal training had been on going as well for Lay Magistrates every Tuesdays and for Members of the Family Court every Thursday each week whenever the Resident Magistrate is on the Island from May 2010 up to the present time.

### **Overseas Training Workshop**

1. Resident Magistrate attended a 3 days Colloquium in Malaysia from the 9<sup>th</sup> to 11<sup>th</sup> June 2009 on Intellectual Property Rights Enforcement.
2. The Law Librarian (Daeo Raelytta) attended the following:-
  - (a) Attended the Pacific Law Librarian Workshop in Vanuatu for 3 days in May, 2009.

### **USP Training Workshop**

2. The Clerk of Court (Elvani Teimitsi) attended the following:-
  - (a) Attachment for 2 weeks with the USP Donga Campus on February 2010.

## **Key/critical issues confronted by the Department**

***Backlogging*** is an important issue Judiciary must rectify to maintaining and updating it whereas cataloguing of all sorts documents needed to be recorded into the computer for international and domestic use/reference guide world wide as it is also one of the objectives of the department.

***Office equipments shortages*** are another area whereas 4 staffs needed: new computers with printers, new desks & chairs, email & internet access codes.

Regarding internet access only the Resident Magistrate have internet access. As the department is desperate to have a heavy duty photocopier at hand so that the work loads administratively side of things will be minimized and provided with a network in place. A network in place does lower the expenses to be incurred by the department from having different kind of printers simply by ordering toners.

**Shortage of Manpower** there is a need to increase of and extra Clerk of Court and to have a new Deputy Registrar to help out on the workload on a day to day basis. The Clerk of Court needs support for many reasons such as now if somehow the officer did not come for work for a variety of reasons work at hand keeps on piling up and when she comes back the stress into processing criminal & civil procedures and to meet deadlines is very much difficult for the Court in running smoothly. The Deputy Registrar is also needed to support the Resident Magistrate in carrying out all of the duties delegated upon whether and the Registrar is on the island or overseas on official business.

**Performance Appraisal** the Head of Department should be considering the employee's contribution and achievements for every six months into identifying any employee's strengths and weaknesses. By having a Work Plan in place on a quarterly basis will show that the employee is not only getting paid but also achievements are made, this will identify whether all the rest of the staffs are working honestly or just playing about at the government's expense. The submission of this Confidential Report every six months should always be highlighted to those in authority to be aware and this message should be passed on to the next appointee taking over the department whereas necessary measures are needed to upgrade the employee's ego or be transferred somewhere suitable.

## **Measures taken on capacity building (Training & Development, and Workshops)**

### **Overseas Training Workshop**

Resident Magistrate attended a 3 days Colloquium in Malaysia from the 9<sup>th</sup> to 11<sup>th</sup> June 2009 on Intellectual Property Rights Enforcement.

The Law Librarian (Daeo Raelytta) attended the following:-  
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## **Departmental outcome and performance indicators.**

### Government

Nauru is an Independent Republic. Prior to 1968, Nauru had been a trust territory administered under the Charter of the United Nations by Australia on behalf of three trustees, the United Kingdom, New Zealand and Australia. Under the Constitution of 31 January, 1968 laws are made by the Parliament of 18 elected members and take effect when certified by the Speaker. Parliament elects the President who is both head of state and chief executive. He and the Ministers appointed by him to Cabinet are members of and collectively responsible to Parliament.

### Sources of law

The legal systems derive from:

- Since 1968, the Constitution, and statutes of the Parliament of Nauru
- Certain statutes of the Commonwealth of Australia and the State of Queensland, and Nauruan ordinances, made prior to 1968
- The institutions, customs and usages of the Nauruan people in relation to land, personal property and succession
- The principles and rules of common law and equity, and the statutes of general application, in force in England on 31 JANUARY 1968, as (in certain cases) specifically adopted, or as subsequently altered or adapted (Custom and Adopted Laws Act 1971, as amended in 1972 and 19976).

### Courts

Day to day judicial work on Nauru is carried out in the District Court by the Resident Magistrate and Coroner who is a degree-qualified expatriate barrister. Statute provides for a lay magistrate, which now is implemented.

Under the Constitution, the most significant court is the Supreme Court, of which the Chief Justice is an experienced expatriate. The Supreme Court determines finally questions involving the interpretation or effect of the Constitution or concerning the right to be a Member of Parliament, and appeals from the Nauru Lands Committee. In other cases (criminal and civil cases generally), there is provision (seldom used) for appeal to the High Court of Australia in Canberra, under an Agreement between Nauru and Australia of 1976.

The Nauru lands Committee investigates ownership and boundaries done by lands & Survey, and acts as a land court to determine questions as to the ownership of or rights in respect of land which arise between Nauruan (including Pacific Islanders). The five to nine members of the Nauru Lands Committee are not formally trained, but are selected for their local knowledge. They are appointed by the President. The NLC consists of the Chairman and nine members. The Committee has a reputation for painstaking investigation and for settlement of questions by prolonged discussion and mediation. Appeal from the Committee lies to the Supreme Court of Nauru.

The Registrar of the Supreme Court is the Resident Magistrate and Coroner described above. The Clerk of Courts is an experienced interpreter. Other court staffs are not specially trained, but are guided by instructions in “Registry Practice”.

Assistance in Court

An accused person is entitled to the assistance of an interpreter without payment and a legal representative for which he must pay unless the court assignee as representative to him and determines that he has insufficient means to pay.

**Implementation and progress of NSDS short term and long term milestones**

Judiciary is in line with the NSDS short term and long term milestone and progress is still moving forward

Strategies	Short-term milestones	Medium-term milestones	Long-term milestones
Effective law and order with adequate workforce and responsive system in place	<p>Effective legal services and the population</p> <p>Gaps in the Judicial system addressed</p> <p>Recording and documentation system in place and operational with adequate support staff</p>	<p>Sufficient Human Resources, equipments and infrastructural support secured</p> <p>Trained local professionals start to take over from expatriates</p> <p>Re-structure system operational with adequate funding Legal administrative support and filing system in place and implemented</p> <p>Case backlog significantly reduced</p>	<p>Collaboration with other departments increased to mainstream legislative issues into sector policies</p> <p>Locals taking over senior professional positions in Government &amp; Judiciary</p> <p>Community complying with Law and order maintained</p> <p>Retention of Nauruan lawyers addressed</p> <p>Highly skilled innovative support staff</p>

## Key priorities of the Department for future

- To ensure Judiciary maintain its course to stay in line with the NSDS short-term and long-term milestones.
- To ensure all decisions/judgments'/opinions made by the Resident Magistrate & Chief Justice are forwarded to PaCLii an important body which consolidates laws for Nauru and known as **(Pacific Island Legal Information Institute)**
- Provides access to Pacific Islands public legal information via the Internet. It includes primary sources of law and treaties, as well as various secondary public sources including law journals and reports.

One of the roles Judiciary is doing now is working with PaCLII consultants to enable effective methods by up-dating with all Court Decisions, Judgments, and text of treaties, law reports and similar materials with the pacific islands which are not easily accessible. Particularly, for the benefit of the people of the religion

### Budget: a) *APPROVED TOTAL BUDGET*

The approved total budget for FY 2009-10 was \$ **100,412**

### b) *ACTUAL AMOUNT SPENT*

The actual amount spent for FY 2009-10 was \$ **69,214**

### **Domestic Expenses**

202	Salary-Local	35,919	31,996
203	Salary Expatriates	1,500	314
204	Allowances-Staff Contract	12,000	5,985
251	Travel-staff	-	-
255	Travel-Business	20,361	21,528
270	Entertainment	2,000	2,001
301	Printing Stationary	10,499	1,150
305	Telephone/Fax	240	-
308	Library/Periodicals	1,000	675
312	R&M-off. Premises		

			500	-
352		Stores	200	99
353		R&M-Plant	-	-
354		R&M-bldg	3,500	1,140
<b>355</b>	<b>000</b>	<b>Fuel&amp; Oil</b>	<b>2,418</b>	<b>1,752</b>
355	001	Purchase of Petrol	1,482	1,047
355	002	Purchase of Diesel	936	705
359		Electricity	-	-
502		Plant Equip	-	-
528		Staff Training	2,000	650
541		Family court expenses	5,775	1,925
<b>Total</b>			<b>100,412</b>	<b>69,214</b>

### Details of major expenditures

Sub Head	Details
202 – Salary Local	From End of June 2010, only \$31,044 from \$35919 was used for FY 2009-10 Budget
203 – Salary Expatriates	1 <sup>st</sup> July 2010, no provision was made except for FY 2010-11 for this NPP
204 – Allowances Staff Contract	From End of June 2010, only \$3313.33 from \$12,000 was used for FY 2009-10 Budget as Lay Magistrates and Family Court members are more into training to use up SH-204
205 – Salaries Other Contract EEs	No provisions had been made
251 – Travel Staff: Expat Leave	1 <sup>st</sup> July 2010, no provision was made except for FY 2010-11 for this NPP
255 – Travel Business	From End of June 2010, only \$18,644,21 from \$30,360 was used for FY 2009-10 Budget
270 – Entertainment	From End of June 2010, an increase of \$600.80c was an Inter Sub-Head added to the requested of \$2,000 FY 2009-10 Budget
423 – Official Celebrations	No provisions had been made
301 – Printing & Stationary	From End of June 2010, only \$958.01 from \$2,000 was used for FY 2009-10 Budget

305 – Telephone/Fax	Only \$240 was requested for FY 2009-10 Budget and was never used
351- Uniforms & P/clothing	No provisions had been made
352 – Stores	From End of June 2010, only \$108.75 from \$200 was used for FY 2009-10 Budget
359 – Electricity	No provisions had been made
502 – Plant & Equipment	No provisions had been made
528 – Staff Training	From End of June 2010, only \$600 from \$2,000 was used for FY 2009-10 Budget
308 – Library/Periodicals	From End of June 2010, only \$900 from \$1,000 was used for FY 2009-10 Budget
309 – M/Fees & subscriptions	No provisions had been made
315 - Insurance	No provisions had been made
318 – Bank Charges	No provisions had been made
325 – Consultants Fees	No provisions had been made
455 – Subsidies & Donations general	No provisions had been made
311 – R&M Office Equipment	From End of June 2010, \$2,500 was not used up
312 – Office Premises	From End of June 2010, \$500 was not used up
353 – R & M Plant	No provisions had been made
354 – R & M Building	From End of June 2010, only \$470 from \$3,500 was used for FY 2009-10
512 – Nauruan hse. Maint.	No provisions had been made
314 – Legal expenses external	No provisions had been made
540 – Legal Aid	No provisions had been made
541 – Family Court Expenses	From End of June 2010, only \$1,166.67c from \$5,775 was used for FY 2009-10
326 – Special Projects	No provisions had been made

**Head of Department key note:**

- Staff restructuring is the only way forward for Judiciary due to shortages of staff.
- Lay Magistrates will need to be qualified enough by doing there Certificate in Law at most, and the USP Nauru – Donga Campus should come to a solution that the course is accessible for any interested and not having a certain number of applicants for the course to run through Semester 1
- Since Judiciary is in line with NSDS there are more areas that needs to be upgraded still and some of those areas are: Forwarding Supreme



Court Rulings & Decisions to PACLII website, Upgrading of the Court's Recording System which is about 14 years old, Library electronic information's needed for the easier access of the Chief Justice, Legal Practitioners and others into locating any books for their research,

- Another important proposal will be for the Court to have its own website so that the Public at large can have access to the website to see when is their court case been listed via Internet/Government Website