



**NATIONAL JUDICIARY OF SOLOMON ISLANDS**

**OPENING OF THE LEGAL YEAR 2013**

**21 JANUARY 2013**

**THE CHIEF JUSTICE SIR ALBERT ROCKY PALMER CBE**

**STATE OF THE JUDICATURE REPORT 2013**

Mr. Attorney-General,  
The President of the Solomon Islands Bar Association,  
Distinguished Guests,  
Ladies and Gentlemen,

On behalf of the Judges of the High Court, I welcome you all to the Opening of the Legal year 2013 and thank you all for coming.

It is important as we begin another year of legal and judicial work in the courts of this country that we take the opportunity to remind ourselves of our roles, duties and obligations, of the Oaths of allegiance and Oaths of Service that we took before Almighty God, and renew our pledges of co-operation and support in our noble task of the dispensation of justice and the pursuit of the Rule of Law. For without those foundational pillars and their efficient

and effective discharge we cannot grow and develop as an aspiring young nation into the world community of nations and to build a better life for our people. For ultimately, the end product of what we do let me remind us this morning is so that we can improve the quality of life of everyone. When the wheels of justice roll smoothly like a well-oiled engine, there is law and order, peace and stability, essential building blocks for investment, economic growth and development and prosperity. So let us put on our 3-dimensional spectacles this morning so that we can get a better view and perspective of what we are doing and our destiny.

I want to remind us this morning that Solomon Islands as a developing nation still has a long way to go, with many rivers to cross, mountains to climb and challenges to overcome, but that cannot be achieved without the firm comment and determination on our part to those foundational principles and values.

Do we want this nation to grow and prosper then we must be prepared to dig deep and lay a solid foundation based on the principles of law, justice and good governance where those coming after us can trust and be able to build further onto it. This remains our challenge in this year.

Those legal challenges and issues ahead of us will give us more opportunities to build a firmer, safer and more secure society where Constitutional and democratic governance and the rule of law flourishes and prospers. It will again demand the highest levels of commitment, dedication, discipline and focus on our part to maintain that level playing ground for all, where the rich or the poor, the powerful or the weak, can come to have their disputes resolved in a fair, impartial and timely manner. To that extent, I

wish to thank the Attorney-General and the President of the Bar Association of Solomon Islands on behalf of all lawyers, for your pledges and assurances of support to the Bench for this New Year.

I also wish to take this opportunity to thank the outgoing President, Mr. Rodney Kingmele and his Executive for their dedicated support and assistance to the Judiciary during your term of service and to congratulate you, Mr. Marahare, as the new President and your Executive of the Solomon Islands Bar Association. I look forward to working with you during your term in addressing outstanding concerns regarding the legal profession and common issues in and out of court.

I thank the Commissioner of Police for the Guard of Honour and the Royal Solomon Islands Police band provided to honour the occasion. Your presence on this occasion reminds us again at the beginning of this year, of the crucial role the Police play in law enforcement and the maintenance of law and order in our young aspiring nation.

The Police is a key institution in this country that continues to provide a safe and secure environment for the community and safeguard our constitutional freedoms and rights. Burning down police stations and destroying police property is very short sighted, foolish and ignorant, for one day those very people or their family members may rely on the police to provide protection or security for their lives and property.

This brings me to call on the Government to pro-actively support the police in terms of their logistic needs, whether it be equipment, facilities, infrastructure or human resource needs. What we must not forget and overlook is that the population of this nation is increasing all the time and so

the physical numbers of officers also needs to be increased to be on par with the rapidly increasing population.

This also brings me to call on the community to support the work of the police, instead of resisting and not cooperating with them. This requires a change in the mindset of the community that the Police cannot do their job well without their support. For instance, harbouring fugitives and escapees and not cooperating with them in any investigative work will not make their work any easier.

I also wish to take this opportunity to thank Archbishop ..... for sharing God's word with us and prayers for we know that without His blessing and favour we would not be able to make good progress this year. I thank the Churches in the country for their prayers, support and encouragement to us in the discharge of our duties.

This is the seventh "State of the Judicature Report" for Solomon Islands. This year I want to focus on the performance of the National Judiciary. There are four key outcome areas which I wish to touch on in their various aspects. These are taken from the National Judiciary Corporate Plan again.

### **1. Building individual knowledge, skills and expertise**

We were fortunate to continue to have the services of a number of capable and experienced advisors working within the National Judiciary during 2012 with funding through the SIG - RAMSI, Law and Justice Programme.

This included three Magistrate advisors who continued to provide a mentoring role to local Magistrates in addition to undertaking court duties themselves.

The High Court and the Magistrates' Court had the assistance of an advisor aimed at strengthening court administration. Ms Helen Child has been of great value to us in that regard, with her zeal, experience and expertise and was able to facilitate much needed improvement and changes in the administrative structure and operations of the National Judiciary. For the latter part of her engagement she had been hard at work providing assistance in the Magistracy to improve services in the Registry and to streamline systems and processes that link directly to National Judiciary operations. She will be leaving us at the end of February and we take this opportunity to sincerely thank her for her outstanding contribution to us and to wish her and her family well as she leaves.

We continued to enjoy the services of an expatriate Registrar, an inline position supporting and undertaking registry and management reform on a daily basis in 2012. He has been instrumental in refining processes and systems in the High Court Registry and has been working on a *Guide for Court Officers Manual* and a *Guide for Court Takers Manual*. These are in their first draft form and once completed and approved will be released as official manuals for use in the Registry. These should further enhance and improve the service performed by these Court Officers. We thank him for his extremely valuable services to us.

In addition during 2012 we continued to receive the assistance of other advisors, the Capacity Development Advisor (across the Law and Justice Sector), Planning and Performance Advisor (across the Law and Justice Sector), and other advisors in the Legal Sector Agencies and the Ministry of Justice and Legal Affairs. Not to mention the Assets and Infrastructure Advisor, Jeremy Watson and Charlis Koroni, the Chief Infrastructure

Advisor for supervising all the repair work, improvements and new works in the National Judiciary here in the City and in the Provincial Centres. We have had offices, court rooms and residences renovated in Kira Kira and Lata and new houses built. This work is ongoing and will continue on this year.

This year we have had judges and magistrates as usual attending numerous conferences and workshops overseas including members of our staff in the National Judiciary for personal development and enhancement of knowledge skills and attitudes. I do not intend to enumerate this but details can be obtained from our

We also again took advantage of the availability of law students on holiday to assist us and carry out work place attachment over the holiday period.

Apart from training workshops within the Region which court officers were able to attend with assistance from aid organisations and funding assistance from our own budget we were also able to conduct training for Local Court Presidents & Clerks on Decision making and Judgment writing. I understand this was of great value to those who attended and we hope to run more training programs locally to up-skill and improve the knowledge base of our lay justices, clerks and non-judicial staff.

## **2. Simplifying & integrating National Judiciary systems and processes**

Last year I spoke on some length regarding the work undertaken to streamline the systems and processes within the National Judiciary to improve efficiency and effectiveness in the delivery of justice services.

This has resulted in the documentation of procedures for Executive Personal Secretaries, Human Resource and Magistrates' Court Civil and Criminal processes. Procedures for Auki Magistrates' Court were also documented and the Justice Sector Consultative Committee. This has resulted in job descriptions better articulated and clarified and resulted directly in improvements in staff performance, attitudes and attendances.

As a result of this process, the senior executive team in the corporate services has been strengthened and consolidated. This has resulted in more effective and confident leadership roles being taken up and demonstrated as well in the National Judiciary executive team.

The improvements and successes of these can be seen in Human Resource issues, promotions, confirmations, appointments and advertisements being processed through in a more timely manner.

There was also a marked improvement in the way the financial processes were handled resulting in all the budget bids being completed and lodged in time.

Further this raised the awareness levels of staff in terms of their employment obligations and rights and also general health issues resulting in reduced sick leave in the long term.

One of the success stories and significant achievement for us in the National Judiciary last year was the successful hosting of the Pacific Judicial Conference attended by Chief Justices and Judges from the Region. The Conference gave opportunities to staff via the various sub-committees set up as working groups to develop leadership, management and public relation

skills through the numerous tasks undertaken by staff members throughout the conference.

The successful hosting of this conference would not have been possible without the support and commitment of the Registrar, the Chief Executive Officer, the Courts Administration Adviser, and all the Chairs of the various committees set up and members of the National Judiciary including those in the High Court and the Magistrates' Court, not to mention the assistance and cooperation other Government Agencies that willingly helped, including the police drivers and the traffic escorts provided by the Traffic Police, and assistance provided by the Protocol Section of the MFA, Immigration, Passports, Customs and Civil Aviation, the Ministry of Infrastructure and Development, the Liaison Officers and all who worked tirelessly during that period to look after the Delegates, their accompanying spouses and Guests and to make their stay here pleasant, enjoyable and a memorable one. The Regional Assistance Mission to Solomon Islands in partnership with the Solomon Islands Government must be given a special mention for co-sharing the costs of the conference and making it happen and so worthwhile for everyone. To all of you, I say thank you so much again for your love, sacrifice and dedicated service.

### **3. Improving the efficiency & effectiveness of services, supporting access to and delivery of justice**

The primary task of any judicial bench is to deliver justice in a timely and impartial manner by a competent judiciary. Nothing undermines our



integrity more than delay through inefficiency, ineffectiveness or incompetence.

The Courts are a public institution and must be accountable to the public they serve. Our accountability is in terms of our handling of a matter from moment of filing right through to its conclusion, whether it is when a judgement is delivered and enforcement proceedings completed, or in terms of a criminal matter, an acquittal or a conviction, sentence and if an appeal, after conclusion of the appeal hearing and judgement.

### **Court of Appeal**

- Although fewer new appeals were filed in 2012 as opposed to 2011 the total number of 38 is still higher than earlier years of 2007 – 2010.
- There was a slight increase in the number of appeals disposed of by the court over 2012 – expected as a result of the high number filed in 2011.
- In the next session the Court of Appeal will be requested to revisit relevant sentencing tariffs for the Solomon Islands particularly in cases of rape. The High Court has recently raised the sentencing length for Gender Based Violence Offences, especially in the light of unprecedented increases in this type of offences coming before the courts. Whether this is the result of more victims being willing to come before the courts or whether this is one of the unfortunate effects of a post conflict environment is not clear but this state of affairs is simply unacceptable. I reiterate that the court is only one of the institutions in the country that must address this issue. The community must play its role, especially the home where proper training, teaching, mentoring and discipline must be instilled so that children have a correct understanding and appreciation of human relationships and interactions.

- The Court currently has 23 cases awaiting hearing for the next session in April this year.
- Also the Judicial and Legal Service Commission has endorsed the appointment of a new Court of Appeal President to replace Sir Robin Auld. He is Justice Edwin Goldsbrough, current Chief Justice of the Turks and Caicos Islands and current member of the Court of Appeal as well. He has been a former member of the High Court Bench and therefore has a wealth of experience and knowledge of the legal system and processes of the country. We wish him well when comes in for the sitting in April and to take his Oaths before the Governor-General of Solomon Islands.

### **High Court**

- There has been overall a 15% reduction in new cases coming to the High Court for 2012 – mainly in the area of civil. Criminal figures remain consistent however with 2011.
- There were 8 new Appeals filed from Customary Land Appeal Court (c/w 2011 figures = 0).
- In the criminal jurisdiction, Gender Based Violence cases make up 30% of new proceedings committed to the High Court, which is a reduction on cases filed in 2011.
- 63% of the 119 outstanding cases in the criminal jurisdiction have been allocated hearing dates in 2013 of which 58% of the fixtures are for Gender Based Violence offences
- Overall there were less disposals in the High Court compared to 2011, however the 2011 figures included the results of a large review of old civil cases which were disposed of under the High Court rules by the Registrar.

- Although the overall figure of disposals was less than 2011, in the criminal jurisdiction there was an increase of 56% in numbers of cases disposed from the previous year.
- Of the 50 criminal cases in 2012 disposed, 54% were Gender Based Violence matters.
- And of the 10 circuits scheduled only 4 took place.

### **Central Magistrates' Court**

- The figures I have been provided with show that there is a huge number of outstanding warrants in the Central Magistrates' Court, to the tune of 6047 outstanding warrants. I understand there is a warrant reduction project being undertaken to assist in dealing with them and will recommence end of February by listing before the court.
- There were sittings of the Juvenile Court at the CMC but no separate Juvenile Court sitting in the provinces. This is something which I hope will be re-dressed in this year.
- It appears that there has been some apparent neglect in the sittings of the Domestic Court to hearing of domestic matters. Also this would seem to include the civil sittings of the Court. This must be re-dressed in this year by the Magistrates' Court. The unified Solomon Islands Courts (Civil Procedure) Rules 2007 were so crafted to make it simpler and easier for everyone to read, understand and apply and there is no excuse for any neglect in the hearing of civil matters.
- There has been a marked improvement in the Court circuits to the Provincial Centres – 70% of scheduled circuit tours took place. These included visits to Tulagi, Auki, Santa Ana, Rennel, Taro, Lata, Noro/Munda, Gizo, Marau, KiraKira and Buala. This is a vital link and service in making the court accessible to the people. Our mission

statement to “deliver justice that is visible, tangible and accessible to all” means that until we have the District Centers fully staffed and manned by Magistrates and Court staff, the provincial circuits must continue to be made available. In this regard, it is hoped that other centers not visited such as Yandina, Bellona & Seghe may be covered this year.

### **Local Courts and Customary Land Appeal Courts.**

The state of these courts continues to stick out like a sore thumb and I won't be-labor the point made so often that it is now a matter of great concern that these courts are not sitting regularly as they ought.

The figures that I have if correct, show a dire situation in the delivery of justice by these courts and do not reflect well of us in terms of our corporate goals to have justice delivered locally to the communities. These two courts in particular have a particular jurisdiction that touches the base of many of our people in the communities with land disputes to be resolved in a timely, just and fair manner. Unfortunately, this is not being done.

For example the figures for these Courts of cases pending are as follows:

#### Central Magistrates' Court:

- 77 Local Court cases pending
- 76 Customary Land Appeal cases pending

#### Western Magistrates' Court District (Western Province)

- CLAC 49 cases pending
- Local Court cases = 77 pending

#### Eastern Magistrates' Court Makira & Temotu Province

- CLAC 77 cases pending

- LC = 68 pending

I would call on all Magistrates and those involved in the coordination of these courts to look at ways and in increasing the regularity of sittings of these courts this year. Funding for these courts is not an issue for the Government has been very responsive to our requests to increase funding for the sitting of these courts.

#### **4. Establishing the National Judiciary as an independent self-administering entity that attracts and retains high quality personnel**

This is the fourth strategic Objective of our Corporate Plan. I propose to take this matter further this year with submissions to be put forward for changes to the salary structure of the Magistracy with the view to taking them out of the Public Service Structure and aligning them on a separate judicial scale. With support from a project team funded under the RAMSI Law and Justice Program we hope to have some recommendations put forward for the Government to consider later in the year.

Recruiting and retaining high quality personnel continues to be a problem, more so in the Magistrates' Court. We have not been very successful in attracting lawyers to apply for the positions of Principal Magistrates that continue to be vacant. This is disappointing for it has set us back in our efforts to position Principal Magistrates in the District Centers. Ultimately this has caused a delay and reduction in the quality of judicial services in the Provinces. Attempts have been made to address this problem in the short to

medium term with more court circuits by Principal Magistrates to these centers.

I said in my opening speech last year that I would pursue rule changes to transfer the Judicial and Legal Service Commission from the Public Service to the National Judiciary. Unfortunately due to other pressing needs and commitment we were not able to devote time to reviewing the Judicial and Legal Service Commission Regulations. I am confident we should be able to allocate time for this in this year.

It was with pleasure I welcomed Justice Pallaras to the High Court bench in July last year. His appointment has been of tremendous assistance in helping to reduce the number of outstanding criminal cases and tension related cases. The volume and quality of judicial work discharged by his Lordship since taking up his Commission has been outstanding.

I must extend my thanks as well to my colleagues on the Bench for all their assistance and support to me and dedication to their duties in faithfully discharging their service to the country. Their comity and courtesy is greatly appreciated.

We are still working on plans for Gizo and Honiara in terms of expansion work, new court complexes and offices for these centers. In Gizo, we are trying to identify land for the new court buildings. In Honiara, we acquired the former SINU premises and are looking at options to build and expand onto that land. We appreciate these will take time and money but the groundwork is being prepared and put in place.

You will appreciate as well, that each year the well of this Court room gets smaller because of increasing numbers of lawyers. This year I will be looking into further expanding on the current premises to cater for the increasing workload of the court. Office space is now very limited with the increasing demand on the work of the courts, both in terms of judicial and non-judicial staff.

Currently the maximum number of Judges in the High Court is 7. There are two vacancies. When confirmation is received of the availability of funds for a Puisne Judge position to be filled, we will proceed to advertise the position. I will be looking also to having the limit raised in the light of this increasing workload. The significance of these proposed actions always comes back to the pressing issue of **judicial productivity**. There will be little advantage in having more judges and more courts if the overall output of the courts and judges is not maintained at an acceptable level.

I will also be looking at the possibility of having Commissioners of the High Court appointed on a short term basis to assist in this, subject of-course to the availability of funds. Timely disposal of cases and judgements and the clearing of overhanging backlog of cases are the outcomes we hope to achieve through this.

This brings me to the subject of **staff development and training**. I touched on this in detail in my opening speech last year and so only need to reiterate that this continues to be an important focus for our judicial and non-judicial officers. While opportunities may be limited, we will seek to hold in-country training workshops whereby a lot more officers can attend and benefit from.

I would also like to touch briefly on the issue of career development in the Legal Service while on this vein for while focus is on the courts and judges, the development of a career path for other judicial and legal officers must not be overlooked. This is important for in many overseas jurisdictions, the legal service continues to be the main source from where the majority of higher judicial officers are recruited from. This is no different in Solomon Islands. It is important therefore that there is a clear career path in the Legal Service so that they can aspire to the highest positions on the Bench where the best and most competent are given opportunity to fill. Of great concern is that while there is a large number of new graduates and young lawyers in these legal offices, there is a marked absence in the middle senior category positions. While there has been no problem with recruitment at the entry levels, retaining those with experience has been a real problem. Bearing in mind that our future judges may be coming from these offices, it is important that there is a clear career path put in place with reasonable and comparative terms and conditions that can allow them to develop their skills and experience in these offices without having to leave after only about four or five years or even earlier. The quality of Judges on the Bench cannot be compromised at this crucial stage of development of this nation. On the same vein let me reiterate that the terms and conditions of Judges must be kept at attractive terms.

While on this subject let me also raise a concern regarding the number of young lawyers going into private practice. This is of concern because it is reflected in the quality of legal submission and advocacy in the court primarily on the grounds of lack of proper training and mentoring from senior and experienced lawyers. I would ask Mr. Attorney-General and



President that you consider amendments to the current Legal Practitioner's Rules so as to address this issue in a practical and meaningful way. The problem with someone going out alone into private practice without the relevant knowledge, skills and experience is that without being equipped with the necessary skills, bad habits can be easily acquired and entrenched and in turn affect the quality of legal service provided. This affects not only the service provided to the client, but court performance as well and in turn the image of the legal profession in the country.

While on this subject let me raise briefly again the issue of discipline, lest it be suggested that I have grown weary of having to mention this at every opening of the legal year. Let me remind the legal profession this morning that it is not a "loose" profession or uncontrolled. Like similar professions in the country, doctors, nurses, accountants etc., your profession is governed by rules and regulations. In the same way the Police, Army and Corrections Officers are referred to as a disciplined force, yours too is described as a disciplined profession. So if you breach one of the rules you should be subject to the disciplinary process. The reason for this is obvious, so that the standards, integrity and reputation of the profession can be maintained, protected and preserved at an acceptable level. If you care enough about this and are committed to the profession, you will do something about this this year. I cannot over stress now that the delay in having disciplinary hearings conducted and processed through is making a mockery of those rules.

Finally, as we put our shoulders to the wheel again this year, let us determine in our hearts and minds to make a difference this year in our work. The Regional Assistance Mission to Solomon Islands will be celebrating its tenth year of assistance in the country and while we wish

them well for this, let us seize upon the opportunity this Mission of Assistance has provided for us to consolidate and improve upon our achievements and progress. Let us not be contented with mediocre achievements but always aim for excellence and be leading examples in all that we do for this nation.

It is my pleasure to grant the motion moved by the Attorney-General and supported by the President of the Bar Association of Solomon Islands and to declare the court's doors open to the public.

I wish you all *better justice* and God's blessings for 2013.