



**NATIONAL PARLIAMENT OF SOLOMON  
ISLANDS**

**BILLS AND LEGISLATION COMMITTEE**

**COMMITTEE REPORT**

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**Report on Prescription of Judges (High Court)  
(Amendment) Bill 2023 (No. 8 of 2023)**

**NP-Paper No. 28 of 2023**  
**Presented on 4 September 2023**  
**National Parliament Office**





## CHAIR'S FOREWORD



Mr. Speaker,

Pursuant to Standing Orders No. 71 (g) of the National Parliament of Solomon Islands, it is an honour and pleasure for me, Sir, to present the Report of the Bills and Legislation Committee on the Inquiry into the **Prescription of Judges (High Court) (Amendment) Bill 2023 (No. 8 of 2023)** for laying before Parliament.

A handwritten signature in blue ink, which appears to read 'John Maneniaru'. The signature is written over a horizontal line.

Hon. John Maneniaru, MP

Chairman

Bills and Legislation Committee

4 September 2023



## **COMMITTEE MEMBERS**

The current members of the Bills and Legislation Committee (11<sup>th</sup> Parliament) are:

Hon. John Maneniaru, MP (Chairman)

Hon. Matthew Cooper Wale, MP

Hon. John Deane Kuku, MP

Hon. Rick Nelson Houenipwela, MP

Hon. Peter Kenilorea Jnr, MP

Hon. Lilly Maefai, MP

Hon. Derrick Rawcliff Manuari, MP

Hon. Silas Vaqara Tausinga, MP

### **Secretariat:**

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## COMMITTEE FUNCTIONS

Standing Order 71 of the National Parliament of Solomon Islands.

There shall be a Standing Select Committee designated the Bills and Legislation Committee whose functions, in addition to the provisions in Orders 50 and 55, shall be to -

- a) examine such matters as may be referred to it by Parliament or the Government;
- b) review all draft legislation prepared for introduction into Parliament;
- c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- d) monitor all motions adopted by Parliament which require legislative action;
- e) review current or proposed legislative measures to the extent it seems necessary;
- f) examine such other matters in relation to legislation that, in the opinion of the Committee, require examination; and
- g) make a written report to each meeting of Parliament containing the observations and recommendations arising from the Committee's deliberations.



## EXECUTIVE SUMMARY

As mandated under Order 71 (g) of the Parliamentary Standing Orders, the Committee conducted hearings into the **Prescription of Judges (High Court) (Amendment) Bill 2023 (No. 8 of 2023)** in Honiara on Wednesday 30<sup>th</sup> August 2023.

The object of the Bill is to amend the *Prescription of Judges (High Court) Act, (Cap. 90)* to enable the Judiciary, as a critical arm of a democratic society to effectively carry out its judicial services, given the increased demands and challenges of our modern society.

The Committee welcomes this amendment bill to address the caseload on the current judges and to ensure justice is served in a timely manner. The Committee sees no issue of significance with this Bill and, therefore, commends it to the House with the following recommendations.

The Committee recommends that;

1. The government immediately take steps to allocate funds to ensure that the first two judges from this increase are able to commence work in 2024. Such allocation must include the construction of at least two new court rooms in the final quarter of 2023, and the allocation of equipment and support staff to each new judge in 2024.
2. An effective mechanism is established to ensure that funding and resourcing needs of the judiciary are prioritized in the budget process.
3. Although outside the scope of this Bill, the need for more court rooms and office space at the central magistracy is acute and may affect the discharge of justice. The Committee recommends that this need be given priority and addressed immediately.



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## 1.0 INTRODUCTION

- 1.1 This Report presents the findings of the inquiry and the recommendations by the Committee. This Report summarizes the findings and recommendations of the Bills and Legislation Committee ('the Committee') after conducting an inquiry into the **Prescription of Judges (High Court) (Amendment) Bill 2023** ('the Bill') as required by the Standing Orders of the National Parliament of Solomon Islands ('the Standing Orders').
- 1.2 The Bill seeks to amend the Prescription of Judges (High Court) Act Cap 90 to High Court by increasing the maximum number of puisne judges that may be appointed to the high court from seven to twenty one.
- 1.3 The Bill's hearings were held in one day in the National Parliament of Solomon Islands, Conference RII, Honiara, on Wednesday 30 August 2023.
- 1.4 The relevant government ministry and stakeholders were invited and participated in the hearings. This include the Ministry of Justice, National Judiciary and the Law Reform Commission. Appendix A contains a list of witnesses who came before the Committee, minutes of the proceedings, and a list of submissions received.



## 2.0 BACKGROUND

- 2.1 In 2018, the office of the Permanent Secretary Special Duties in the Ministry of Justice and Legal Affairs established and coordinated a temporary committee in response to the ministry's request to the Chief Justice for a review of the terms and conditions of the High Court Judges, as well as an increase in the maximum number of puisne Judges that can be appointed to the High Court. The committee stated that the substantial increase in workloads has a bearing on the delivery of justice due to longer case delays, case determination, and the working circumstances and health of High Court Judges themselves<sup>1</sup>.
- 2.2 The High Court of Solomon Islands is established under Section 77 (1) of the Solomon Islands Constitution, and Section 77 (2) stipulates that the Chief Justice, Deputy Chief Justice, and a number of puisne judges shall be judges in the High Court. As the need arises, parliament may specify the number of puisne judges. In accordance with the provisions of the constitution, the Prescription of Judges (High Court) Act, Cap. 90 of 1979, which authorized the appointment of no fewer than two and no more than three judges for the High Court, was passed. Up until 2004 the Prescription of Judges (High Court) Act Cap. 90 was revised in which is around 22 years ago<sup>2</sup>. This revision provides for the increase of the number of Puisne Judges' of the High Court from three (3) to seven (7)<sup>3</sup>.
- 2.3 The number of cases registered each year has risen considerably from 300 to 400 cases per year 10 years ago to 600 to 700 cases today<sup>4</sup>.
- 2.4 With regard to backlogs and pending cases, there are more than 1500 backlogs and pending cases. The oldest case tailed back to 2000<sup>5</sup>.
- 2.5 Currently the sitting judges of the high court includes, the Hon Chief Justice, Deputy Chief Justice and six Puisne Judges with one position being vacant now<sup>6</sup>.
- 2.6 With the workload for each Puisne Judges, each judge should ideally hear no more than 100 cases. However, due to the limited number of judges, each judge currently has more than 250 cases on their dockets. With more than 250 cases per judicial officer, this is already too much for them, or they are overburdened. In terms of output, judicial officers labour relentlessly to ensure that matters are managed, scheduled for hearing, and disposed of in a timely manner.

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<sup>1</sup> Hansard Transcripts.

<sup>2</sup> National Judiciary, written submission, 29<sup>th</sup> August 2023.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.



It is critical to note that, in addition to the substantive claim(s), interlocutory applications are filed in a matter<sup>7</sup>.

- 2.7 Future projections show that, with cases being added (filed) and listed on a daily basis, a judge will have more than 300 cases by the end of the year<sup>8</sup>.
- 2.8 Therefore, the proposed amendment Bill seeks to amend the Prescription of Judges (High Court) (Amendment) Act 2004 to to increase the number of Puisne Judges' from seven (7) to twenty one (21)<sup>9</sup>.
- 2.9 This proposed amendment Bill will assist very much in reducing backlogs and pending cases; reducing judicial officers' workload; and justice being accessed in a timely manner<sup>10</sup>.

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<sup>7</sup> National Judiciary, written submission, 29th August 2023.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

### 3.0 GENERAL ISSUES

#### Funding

- 3.1 The Hon Chief Justice<sup>11</sup> has raised the financial constraints being faced by the National Judiciary in terms of efficiently resourcing the infrastructure and manpower to discharge cases on time. He also stated that it is important that when increasing the number of judges, funding must be provided for it. Having a judge appointed is not cheap. The package for one judge alone is about \$1.6 million.
- 3.2 Further more, in his submission, the Hon Chief Justice informed the Committee that currently there are six puisne judges and one position is vacant. The vacant position is reserved for an expatriate judge, however, the current term is not attractive for them. Therefore, this comes back again on the issue of lack of funding. His Lordship highlight that they rely most on donor funding although it is not easy. Therefore, it is suggested that Solomon Island Government should step in and fund the vacant position although this seems too difficult for the government.

#### **Recommendation 1**

**The government immediately take steps to allocate funds to ensure that the first two judges from this increase are able to commence work in 2024. Such allocation must include the construction of at least two new court rooms in the final quarter of 2023, and the allocation of equipment and support staff to each new judge in 2024.**

#### **Recommendation 2**

**An effective mechanism is established to ensure that funding and resourcing needs of the judiciary are prioritized in the budget process.**

#### Reasonable caseload

- 3.3 The Committee enquired into what is a reasonable case load.
- 3.4 The Hon Chief Justice<sup>12</sup> expressed that with the limited number of puisne judges in the High Court, delays of court judgments can arise when they are overloaded with files coming through. Every day when judges are busy hearing, they also need adequate time to write judgments. Interlocutory should be done quickly, which are just interim rulings. When it comes to the actual trials and writing judgments, the judge needs time. But while he completes

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<sup>11</sup> Sir Albert Palmer, Chief Justice, National Judiciary of Solomon Islands, oral evidence, 30/08/23.

<sup>12</sup> Ibid.



one case and prepare to write, another still going on as well. That is why there is a back-to-back listing of cases happens.

### **Court Chambers and office space**

- 3.5 The Committee raised concern regarding the workload of judges and the much needed space for the judges if this Bill becomes law. One judge deals with at least 250 cases, this is a lot for one judge to handle. Furthermore, with the possible increase in the number of judges the Committee is concerned with how the ministry will deal with the issue of space.
- 3.6 The Ministry<sup>13</sup> agreed that there is a lack of space for court rooms but is positive that it is something that the ministry can manage over time. In addition, the Ministry stated that they have completed partitioning of some of the court rooms. This will enable the ministry to accommodate at least one or two judges but if it is for more than two judges then this will be an issue for the ministry.
- 3.7 To avoid this the ministry in future, can bid for additional funding in terms of its development budget.
- 3.8 The Chief Executive officer<sup>14</sup> of the National Judiciary also stated the same sentiments about the inadequate office space and court chambers. The Hon Chief Justice<sup>15</sup> also emphasized that for the expansion wise with regards to the High Court infrastructures, it depends much on the funding that are available to them. His Lordship further states that when increasing the number of judges, funding must be provided for it. And this funding is to cover for their terms and conditions and office space and chambers to accommodate them.

### **Recommendation 3**

Although outside the scope of this Bill, the need for more court rooms and office space at the central magistracy is acute and may affect the discharge of justice. The Committee recommends that this need be given priority and addressed immediately.

### **Justice Precinct**

- 3.9 The Committee sought update on the Justice Precinct project, whether it has been approved by cabinet.
- 3.10 The Permanent Secretary<sup>16</sup> informed the Committee that the ministry is currently focused on completing its payment for its architectural design for the new justice precinct. One and a

<sup>13</sup> Mr. Dr Paul Mae, Permanent Secretary to the Ministry of Justice and Legal Affairs, oral evidence, 30/08/23.

<sup>14</sup> Mr. Joseph Bibiasi, CEO, National Judiciary, oral evidence, 30/08/23.

<sup>15</sup> Sir. Albert Palmer, Hon Chief Justice, National Judiciary, oral evidence, 30/08/23.

<sup>16</sup> Mr. Dr Paul Mae, Permanent Secretary to the Ministry of Justice and Legal Affairs, oral evidence, 30/08/23.

half million dollars has already been paid to the architectural company but there is still an outstanding of another 1.5 million dollars to be paid. Once the design is completed and the full payment is done, the ministry will seek funding from the aid donors to fund the construction of the new precinct.



## 4.0 CONCLUSION

Justice delayed is justice denied and this expression resonates well with the reason for the amendment that is sought in this Bill. The Bill seeks to amend the maximum number of judges from seven to twenty-one judges due to the workloads, pending cases and backlogs over the past years against the limited number of judges and resources. The Committee welcomes this amendment Bill as a way forward to reduce the caseload on the judges. Therefore, the Committee commends this Bill to the House.

## 5.0 RECOMMENDATIONS

The Committee, following its scrutiny of the Bill, makes the following recommendations:

### Recommendation 1

The government immediately take steps to allocate funds to ensure that the first two judges from this increase are able to commence work in 2024. Such allocation must include the construction of at least two new court rooms in the final quarter of 2023, and the allocation of equipment and support staff to each new judge in 2024.

### Recommendation 2

An effective mechanism is established to ensure that funding and resourcing needs of the judiciary are prioritized in the budget process.

### Recommendation 3

Although outside the scope of this Bill, the need for more court rooms and office space at the central magistracy is acute and may affect the discharge of justice. The Committee recommends that this need be given priority and addressed immediately.

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END OF REPORT



## 6.0 APPENDICES

### Appendix 1: Witnesses

Date	Name	Position & Organisation
Wed 30 <sup>th</sup> Aug 2023 10:10am – 10:52am	Sir. Albert Palmer,	Chief Justice
	Mr. Joseph S. Bibiasi,	Chief Executive Officer (CEO)
	Mrs. Myonnie Ann Tutuo,	Registrar
	Mr. Moody Alex,	SACJ
10:55 am - 11:26 am	Dr. Paul Mae, Dr. Lalotoa Mulitalo Mrs. Kyla Venokana- Sie, Ms. Ha'a Hauirae,	Permanent Secretary
		Legal Drafter (Acting) AG Chambers
		Chief Legal Policy Officer, MJLA
		Chief Legislative Drafter, AG Chambers
11: 29 am – 11:44 am	Mr. Philip Kanairara	Chairman - LRC

### Appendix 2: Minutes of Proceedings



NATIONAL PARLIAMENT OF SOLOMON ISLANDS

BILLS AND LEGISLATION COMMITTEE

P.O. Box G19,  
Honiara.  
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Fax: 24272

#### Minutes of Proceeding

Committee Hearing into the Prescription of Judges (High Court) (Amendment) Bill  
2023 (No.8 of 2023)

Day 1/2023

Wednesday 30<sup>th</sup> August 2023, CRIL, Parliament Building, 10:10 AM

**1. Members Present**

Hon. John Maneniaru, MP- Chairman  
Hon. Matthew Wale, MP

**2. Apologies**

Hon. Rick Houenipwela, MP  
Hon. Peter Kenilorea Jnr, MP  
Hon. Derrick Manu'ari, MP  
Hon. Silas Vaqara Tausinga, MP  
Hon. Lilly Maefai, MP

**3. Secretary**

Ms. Ivory Iruha'a

**4. Secretariat**

Ms. Salome Pilumate, Committee Secretary  
Mr. Whitmon Tabiru, Committee Secretary  
Ms. Cordney Wale, Committee Secretary  
Mr. Wilson Orisi, Committee Secretary  
Ms. Monica Sekonga, Senior Admin Officer-Committees  
Ms. Sherilyn Ragoso, Hansard Officer  
Mr. Greg Kinimete, Hansard Officer  
Mr. Richard Ngatulu, Hansard Officer  
Mr. Pamentha Golo, IT Support Officer  
Mr. Lawrence Scott, Media Officer

**5. Prayer**

The MP for Aoke Langalanga and Leader of the Opposition Group, Hon. Matthew Wale said the opening prayer.

**6. Welcome/ Opening remarks**

The Chairman of the Bills and Legislation Committee (BLC) welcomed members of the committee, witnesses, committee secretariat and supporting staff. Then said his opening remarks. The Chairman informed witnesses of the Parliamentary privileges.

**7. Inquiry into the Prescription of Judges (High Court) (Amendment) Bill 2023 (No.8 of 2023)**

The Hearing proper commenced and the following witnesses from the National Judiciary were admitted.



### Hearing 1 Witnesses

- i. Sir. Albert Palmer, Chief Justice
- ii. Mr. Joseph S. Bibiasi, Chief Executive Officer (CEO)
- iii. Mrs. Myonnie Ann Tutuo, Registrar
- iv. Mr. Moody Alex, SACJ

The witnesses made their opening presentation before the Committee.

The Committee questioned the witnesses based on evidences presented. Discussion ensued. Evidence concluded and witnesses withdrew.

*Hearing suspends at 10:52 am*

The Hearing proper resumed at 10:55 am and the following witnesses from the Ministry of Justice and Legal Affairs and Attorney General's Chamber were admitted:

### Hearing 2 Witnesses

- i. Dr. Paul Mae, PS
- ii. Dr. Lalotoa Mulitalo, Legal Drafter (Acting)
- iii. Mrs. Kyla Venokana- Sie, Chief Legal Policy Officer
- iv. Ms. Ha'a Hauirae, Chief Legislative Drafter

The witnesses made their presentations before the Committee.

The Committee questioned the witnesses based on evidences presented. Discussion ensued. Evidence concluded and witnesses withdrew.

*Hearings suspends at 11:26 am.*

The Hearing proper resumed at 11: 29 am and the following witnesses from the Law Reform Commission were admitted:

### Hearing 3 Witnesses

- i. Mr. Philip Kanairara, Chairman

The witnesses made their presentations before the Committee.

The Committee questioned the witnesses based on evidences presented. Discussion ensued. Evidence concluded and witnesses withdrew.

*Hearings suspends at 11:44 am.*

The witnesses made their presentations before the Committee.

The Committee questioned the witnesses based on evidences presented. Discussion ensued. Evidence concluded and witnesses withdrew.

## 8. Adjournment

The hearing adjourned at 11:44 am

## Appendix 3: Submissions

### Tabled Submission

No	Author
1.	∩ LRC – The LRC views on the Prescription of Judges (High Court) (Amendment) Bill 2023

### Other Submissions

No	Author
1.	∩ MJLA – Bills Generic Template
2.	NJ – The Prescription of Judges (High Court) (Amendment) Bill 2023 (No.8 of 2023)