

COMPARATIVE SALARIES AND BENEFITS OF CHIEF JUSTICES IN THE PACIFIC

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A comparison of salaries and benefits of Pacific Chief Justices is shared in this article. This is done in an effort to assist those Pacific Chief Justices whose salaries, terms and conditions are not reviewed regularly or kept on par with other leadership positions in the country. The importance of financial security for Chief Justices is stressed in terms of judicial independence and an appreciation of the judiciary as the third branch of government. The article discusses the situation for Chief Justices in Solomon Islands, noting that there are still improvements to be made in their situation.

L'auteur s'est attaché à comparer les salaires et avantages des chefs de juridiction dans le Pacifique. L'objet principal de cette étude est de fournir des éléments de référence aux chefs de juridiction dont les salaires font rarement l'objet d'augmentations ou dont la rémunération reste encore alignée sur celle des dirigeants des petits Etats insulaires du Pacifique. L'auteur souligne, en prenant pour exemple la situation des Iles Solomon, la corrélation étroite qui existe entre l'indépendance financière des chefs de cours et l'indépendance du pouvoir judiciaire vis-à-vis de l'exécutif.

First of all I would like to take this opportunity to thank our host the Premier President, Mr Olivier Aimot, of the Court of Appeal of Tahiti, on behalf of the delegation from Solomon Islands for your kind invitation to attend this conference and for your warm welcome and kind hospitality. Tahiti is indeed a very beautiful country.

I also wish to thank all the Chief Justices and Judges for your cooperation, understanding and patience in sharing details of your salaries and benefits and that of your Judges with us in the Pacific Region.

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While our salaries and benefits are public knowledge in our countries, this is the first time perhaps when we have been asked to share this knowledge together in the hope of assisting others, in particular, those countries having difficulties with the executive and political leadership in their countries in getting sympathy and understanding to have their salaries and terms and conditions reviewed on a regular basis and kept on par with other leadership positions in the country.

The title of the short presentation I have been asked to make this morning is "Comparative Salaries and Benefits of Chief Justices in the Pacific".

The starting point must be from the perspective that financial security is one of the pillars of judicial independence. I do not need to justify the basis for this for it is a trite matter.

Financial security encompasses *inter alia* adequate salaries and benefits for Chief Justices and judges and independence in the fixing and reviewing of their salaries and benefits. While the performance of judicial functions and judicial independence is not dependent on whether one has what is deemed as an adequate salary or not, it certainly enhances and protects Judges from being exposed to possible inappropriate behavior as a consequence of this.

The primary role of a judge is to make decisions or judgments according to law and it is important therefore that they are not placed in positions where they have to worry about their personal and private needs. Where that sort of environment is allowed to exist it can breed what is sometimes described as institutional corruption. This is the situation where a person is made vulnerable by virtue of the position he occupies. Being remunerated adequately helps protect judicial officers from this. It does not eliminate or prevent it but it does reduce the risk of it occurring.

The second point must be that it is the responsibility of the Government to ensure Judges are adequately remunerated and looked after. It seems that in some countries members of the judiciary have had to struggle and fight their way through to get their Governments to appreciate the importance of the judiciary as the third arm of Government and to provide adequate remuneration.

Solomon Islands is not an exception. We are still working this through with each Government that comes to power but progress has been slow. On the other hand, Members of Parliament get their salaries and entitlements reviewed on a regular basis apart from the fact that this is expressly provided for in our Constitution.

In some jurisdictions, their legislation expressly provides that the salaries and terms and conditions of Judges are to be reviewed on a regular basis, whether

yearly to take into account the Consumer Price Index or Cost of Living adjustments or on a three yearly basis.

In other jurisdictions, their salaries and benefits are reviewed by an independent body set up by law.

In Solomon Islands this is something which we have been working on with numerous Governments of the day since about 1993. I remember writing copious letters to have our salaries and terms and conditions reviewed on a regular basis but with little progress.

In 1990, the Constitutional Offices (Terms and Conditions)(Chief Justice) Regulations,¹ were enacted and the salary of the Chief Justice then fixed at \$64,000.00, which is about AUD11,292.81. There were also other benefits, like free housing, water and electricity, gas, a vehicle, domestic servants etc. No review however was done for 15 years until in 2006. It wasn't for want of trying. We did not sit idly by. We formed committees, spoke with numerous Secretaries and persons who we thought were responsible, including the Attorney-General, Ministers of the Crown for Justice; we wrote many letters but while these were acknowledged, nothing was done until 2006, when the salaries were raised to \$130,000.00 per annum (approx. AUD22,938.00). While the increase was welcomed, the difference then made however was that the Chief Justice was paid the same salary as the Puisne Judge. Whether this was deliberate or a mere oversight we do not know but despite our letters advising them of this discrepancy nothing was done until towards end of 2008 when the salaries were readjusted with effect from January 2008 and the salary of the Chief Justice was corrected and now fixed at \$155,000.00 (AUD27,349.00). In terms of the Public Service, this would be the highest paid post, though this must be qualified because while the salaries were adjusted our benefits remained the same. A Puisne Judge's salary is \$140,000.00. The Governor-General is paid a tax free salary at \$140,000.00, the Prime Minister is paid at \$142,000.00 (AUD25,055.00, taxable). There is a marked difference however in the allowances which are paid. The Prime Minister and Ministers of the Crown receive quite attractive allowances. For example for housing allowances, they receive something like SBD15,000.00 per month, while judges if they stay at their own houses receive SBD5,000.00 per month.

What I have done with the information provided by Chief Justices is to convert all the salaries to a common currency. For ease of reference I have used the

¹ Note there are also other separate regulations governing the terms and conditions of a Puisne Judge and other Constitutional position holders.

Australian dollar as the common denominator as I feel it is much easier for the majority of us in the Pacific region to relate to that as many of us have common dealings with Australia and are familiar with that currency.

The figures provided in terms of Chief Justices salaries from the Region vary from the lowest at AUD15,600.00 to AUD348,393.00.

While the figures show a big variation from country to country the real value is to be seen when comparison is made within the rungs of the ladder of salaries in each country and where the salaries and benefits of Chief Justices and judges fit in. This information will have to come from the Chief Justices as to where your position is in the overall scheme of things and hopefully you will have time during the discussion period to comment on that.

Also hopefully there would be time to comment on how often these are reviewed and whether there are adequate safeguards to ensure these are done on a regular basis.

As I pointed out earlier, in Solomon Islands we are still working on that. At the moment our salaries and benefits are reviewed by the Minister responsible, who happens to be the Prime Minister. This process for us is very unsatisfactory and we are looking at how best to get an independent body to do regular reviews for our salaries and benefits.