PNG Sentencing Database
Workshop
Gateway Hotel

October 13th 2021

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1. INTRODUCTION

The goal of this workshop was to get all the users to PNG SD to give their feedback on the current features already available on PNG SD website and to get their recommendation on the way forward in enhancing the current features and in developing additional features.

The PNG SD will now be transformed into PngLIN, which aims to be a one-stop-shop for all court reference materials, legal documents, Judgments and Legislations for all Judges, Magistrates, Lawyers, Law and Justice Sector Agencies and anyone who is interested in the Law of Papua New Guinea with respect to the 3 tier Courts.

"PNG Sentencing Database, when transformed into PngLIN, will soon replace PacLii and PngInLaw"

The workshop included the following topics:
1. Brief background on ICCSD and PNG SD
2. Overview of ICCSD
3. Overview of PNG SD
4. Enhancements of PNG SD to PngLIN
5. Replacement of PngInLaw with PngLIN

For the workshop host, the vital workshop outcomes were:
i.   What is PNG Sentencing Database (PNG SD)?
ii.   What is PngLIN?
iii.   Current features in PNG SD
iv.   Enhanced features in PngLIN
v.   Live Demonstration of PNG SD website

2. Location and Period of workshop

The training was held at the Gateway Hotel, Port Moresby, Papua New Guinea, on the 13th day of October 2021 for Judges, Magistrates, Lawyers and all members of the Law and Justice Sector Agencies. Only a selected number of people attended due to Covid-19 Restriction to mass gatherings.

Find in **Annexure A** is the Workshop Program drafted by Ms Paua and finalized by the Registrar, Mr. Ian Augerea.

3. Attendance

The list in **Annexure B** comprises both the facilitators and the participants (attendees) to the workshop. The participants are from the PNG Judiciary, Magisterial Services, PNG Law Society, Community Based Corrections, Correctional Institute (CI), Solicitor General, Public Solicitor and Prosecutor's Office.

4. Opening

The workshop opening was done by The Chief Justice Sir Gibuma Gibbs Salika GCL KBE CSM at 9:30 a.m. who thanked all sector agency participants for attending the workshop and formally opened the workshop ceremony.

The Chief Justice made mention that during the past, huge computers were used to store data and thick books were carried around by lawyers and Judges to deal with cases. But time has changed, we are now in the 21st Century where the computer is now advanced into a smart phone where you can do all your work using this device. Technology has increased dramatically thus; the Judiciary is working its way towards being a world class standard with the use of modern technology.

Under Chief Justice leadership, he made mention that the transformation of PNG SD into PngLin is a priority project by which, one can use this system to make his profession easier, faster, more effective, efficient so that justice is prevailed fairly, in a timely manner.

The opening remarks was followed by a speech by Mr. Nickson James who is the Acting Director Judicial Support Services, who stepped in on behalf of The Registrar of The Supreme and National Court of Papua New Guinea, who was unwell at that time.

Mr. James advised the brief background on how the ICCSD, and PNG SD came into place back in 2013 and worked its way to the current state with the initiatives of the hard working and committed staff of the NJSS who are now engaged in managing and updating the databases.

He made mentioned that if this database (PNG SD) was a marketing commodity, everyone would be paying a price to use it, however, it is given free access by the Judiciary to the Law and Justice Sector Agencies, plus the Legal Fraternity, in the hope that everyone can access justice and law of this country and that justice is prevailed transparently, in a timely and more effective manner, using the digitalized systems engaged by the Judiciary in the leadership of the Former and the Current Chief Justices of Papua New Guinea.

5. Workshop Sessions and Discussions

5.1 Overview of ICCSD – presented by Ms Ethel Akike

The presentation of ICCSD was using power point where all participants were shown what Jurisdictions are captured in the ICCSD system.

It was further elaborated that ICCSD is a system in the Criminal Law and Justice Sector which tracks a case from the time of arrest to the time case is disposed in the Courts and further to Correctional Services and Community Base Corrections (if on parole/probation).

Moreover, the automatic forms generated by the system were shown and demonstrated in the Training Site of ICCSD. These forms include, Information Laid, Remand Warrant and Notice of Committal.

Other reports generated by ICCSD were also mentioned and showcased to the participants for their information only.

Question was raised on why Public Solicitor and Prosecutor were not captured in ICCSD, and the answer given was that for these two Jurisdictions, development is still undergoing now, and they will be notified when complete.

5.2 Overview of PNG SD – presented by Ms Rose Apai & Ms Serah Paua

The presentation of PNG SD was using Power Point as well which highlighted the questions on "What is PNG SD?", "What is PngLIN?", "Current features in PNG SD", "Enhancements to PNG SD to transform it to PngLIN" and finally followed by a live demonstration of the PNG SD website which was presented by Ms Paua.

It was made clear to the participants that the current features available on PNG SD contains the same things in PacLii and PngInLaw but is unique due to the following:

i. Statistics feature – this feature contains all criminal offences prosecuted in the National Court with their respective graphical interpretation of the total number of cases under a particular offence, with the type of penalty imposed and the actual term of imprisonment imposed by the Courts. It is also linked to the summary of the case which contains all the mitigating and aggravating factors and is linked to the original judgment itself. These features assist Judges and Magistrates greatly in seeing the sentencing trend with respect to the sentencing guidelines and principals.

ii. Judgement published – this feature contains un-numbered and extempore judgments which are not found in the other two websites, apart from the published judgments it publishes. An additional feature now is linking all the cases and laws cited in the body of the judgment to the original case or law made referenced to. This will ease the search for any user to PNG SD.

iii.   Bench Books, Case Notes and Court Rules – all these documents or books are published in web format with contents linked to respective parts or sections as well as laws and cases cited in these documents are linked to the original case or law cited.

iv.   Timely Update of all Features on PNG SD – this attribute is made mention because when you look at information available on the PacLii and PngInLaw, updates are done on monthly or quarterly basis, whilst for PNG SD, updates are done regularly, daily.

5.3 Feedback on Group Activity

- **Enhancements To Transform PNG SD to PngLIN:**

Q1: Statistics – what factors should be captured to build Supreme and District Court Statistics?
Q2: Judgements – what other search features should be developed to improve the current "Search Options" we already have?
Q3: Legislation – what laws can you find in PacLii and PngInLaw that are not on PNGSD?

Point No. 1: Design the Homepage to make it user-friendly, simple, easy to navigate so users can quickly find required information. **(Q2)**
Point No. 2: Restructure the PNG SD Homepage to PngLIN proposed New Page with its new features. **(Q2)**
Point No. 3: There are 20 factors for District Court that are currently at National Court Jurisdiction so simply adapt the already existing ones from National Court and develop it for District Court. **(Q1)**
Point No. 4: Develop a General Search Engine which is Advanced so that it will be easy to search files, catchwords, or key words. **(Q2)**
Point No. 5: Develop search button for specific matters in relation to: **(Q2)**
   1. Acts
   2. Gazettes
   3. Judgment, etc.

Point No. 6: District Court Statistics must capture: **(Q1)**
   1. Community conferencing efforts (for Juvenile)
   2. Diversions (for Juvenile)
   3. Pre-Sentence Report Compilation (Yes/No)
   4. Adopt the characteristics from National Court
Point No.7: Supreme Court Statistics must capture: **(Q1)**
   1. Type of appeal (Sentence/Conviction or Sentence + Conviction
   2. Time Limit
   3. Legal representation
   4. Length of Sentence – period yet to be served

Point No. 8: Supreme Court Case Characteristics will be derived from grounds of appeal. Different Supreme Court Appeals will feature its own unique case characteristics. **(Q1)**

Point No. 9: The additional features to be added onto existing PNG SD features to transform to PngLIN are: **(Q2)**

1. Include Advance Search Option
2. Hitlist
3. Boolean
4. "AND" Search
5. Incorporate all PngInLaw and PacLii search options into PngLIN.

Point No. 10: Legislation must capture: **(Q3)**

1. Repealed acts
2. Historical – Pre-Independence laws
3. Subsidiary Legislation
4. Consolidate all subsequent Amendments to the principal Act for Completeness.
5. Migrate everything currently in PacLii and PngInLaw

6. Participants' responses from "Feedback forms" (Questionnaires)

- Questionnaires to confirm which website used daily by the participants to do their legal research in respect to case precedent and law citations as well as recommendation on new fields that will be developed for data capture in ICCSD

Question 1: Are you still doing your legal research manually?
Ans: Most answered NO they do not do that anymore, but a few responded YES, they do partly manual when information required and not available electronically.

Question 2: Do you prepare manual or electronic search when doing your legal research?
Ans: All prefer electronic research.

Question 3: Which website are you more familiar with in doing your legal research?
Ans: Most PACLii and PNGinLAW only one (1) uses PNG SD.

Question 4:
a. **Which feature in PNG SD do you use often?**
Ans: Most of them have not used PNG SD.

b. **What features in PNG SD do you find relevant to your profession?**

    Ans: Most don't use PNG SD but some that does states that they use relevant features only. Some mentioned search options and other legislations and judgements.

c. **Which features in PNG SD do you think should be improved?**

    Ans: For those few who uses the website stated legislations need to be put in chronological order.

d. **What additional features do you think should be added to the list of menus on the PNG SD website?**

    Ans: The points each stated were:

    1. Advanced search
    2. Index to act of parliament especially amendments.

e. **In statistics of PNG SD, only National Court offences are shown, do you agree that statistics should also capture Supreme and District Court criminal offences?**

    Ans: Few answered said that fields should be created for the other two courts too.

f. **If you agree to the above (e), please answer the following questions:**

    Supreme Court

    i.   **List the criminal Acts/Laws that govern the Supreme Court jurisdiction**

            Ans:

            1. Supreme Court Acts & section 16
            2. Supreme Court Rules
            3. Criminal Code Acts
            4. Bail Act
            5. Summary offence Act
            6. Supreme court bench book
            7. SC criminal Appeals from National Court
            8. SC criminal reviews from NC
            9. SC Constitutional references
            10. SC motions and applications
            11. SC on election petition reviews

    ii.   **List the fact/characteristics which you are certain that judge's use to consider before handing down a SC decision**

            Ans:

            1. Precedence in the other SC cases
            2. SC Act
            3. SC Rules
            4. Same list in National Court too.

iii.   **What type of penalties/decisions are being imposed in Supreme Court criminal sentencing?**

Ans: SC is not a court of original criminal jurisdiction it only deals with appeals on civil and criminal cases and decides to quash or uphold a NC decision.

SC can in a criminal appeal from NC commute or replace a sentence with a new sentence and that needs to be captured in the tracking of the sentence to ensure that it is completed on appeal to supreme court.

a. Substitutes
b. Upholds
c. Affirms
d. Squashes

District Court

i.   **List the criminal Acts/Laws that govern the District Court jurisdiction**

Ans: District Court has 18 jurisdictions, refer to the District Court procedures manual, 2018 and get legislations there.

a. Summary offences
b. Criminal code act
c. Land Law Act
d. Mediation Act
e. Local Court Act
f. Land dispute settlement act.

ii.   **List the fact/characteristics which you are certain that judge's use to consider before handing down a District Court decision.**

Ans:

a. Charges/criminal status
b. Offences/ background i.e.: first time offender or not.
c. Seriousness of the offence committed
d. Previous decisions on sentences

iii.   **What type of penalties/decisions are being imposed in District Court criminal sentencing?**

Ans:

a. Imprisonment
b. Court fine
c. Probation
d. Good behavior bond
e. Caution

    f.   Some have options for ADR and compensation to be considered.

Question 5: What features in PngInLaw do you use often.

Ans:

    a. Looking up legislations

    b. Looking up case laws

    c. Looking up court rules and practice directions

    d. Cases/judgements search.

Conclusion

PNG Sentencing Database is a web-based application database system which was initiated by the Courts with the MOU signed between The Supreme and National Courts of PNG and the Judicial Commission of New South Wales (JC NSW).

This database was developed by JC NSW with the aim of assisting the PNG Courts to achieve its objective in dispensing justice to all fairly, efficiently, and effectively in a timely manner, using the computerized technology. This system provides a platform for judicial officers, magistrates, legal officers, and other law and justice sector agencies, to have access to laws and cases anywhere and anytime around the county and world.

The database captures all the Legislation of PNG Acts and Regulations, together with the country's gazettes, Judgements in the Supreme, National and District Court of PNG (all numbered, un-numbered and oral/extempore Judgments in both CIVIL and CRIMINAL JURISDICTIONS), Statistics for criminal offences prosecuted in the National court, as well as other relevant Court Reference/Documents which the Court deems appropriate to be stored and delivered to all users.

The total number of users we have given access to this system called PNG SD increased from 400 in 2018 to 1, 500 this year (2021) which is a great increase and the demand to use this system is now of high importance and priority to all judicial officers, lawyers and other Law and Justice Sector Agencies staff.

Awareness and minor trainings are ongoing at any time when PNG SD users request for it.

During this workshop, some key recommendations were made by Justice Makail, who was present during the whole day of the workshop, together with inputs from Magistrate Philip and other lawyers in addition to the discussions.

Recommendations/Issues

After getting feedback from participants, these are my recommendations to be implemented as soon as possible:

1. Renewal of MOU with NSW JC and payment of fees for additional features to be added onto PNG SD which will transform to PngLIN.
2. Develop the "Advance Search Option "on Homepage
3. **Rearrange** legislation by **year** and **consolidate** all subsequent Amendments to the principal Act for Completeness.
4. Create the District Court Sentence Event in ICCSD and capture all 20 factors/characteristics already in ICCSD National Court for District Court.
5. Consider specific Search category for Supreme Court Cases in relation to:
    I.   Appeals that result in Dismissal or Confirmed or Upheld
    II.   Decision on Supreme Court which substitute the National Court Decision with their own Decision.
    III.   Criminal Review and Civil Appeals which use different forms as per the Supreme Court Rules.
    IV.   Reviews for Election Petition
    V.   Supreme Court Review (General)
    VI.   Application for leave to appeal
    VII.   Application to stary an interim order
6. Continuation of document conversion into html and adding links for cases and laws cited.
7. Continuation of Judgment conversion and adding links to cases and laws cited.
8. Data entry of District Court Sentencing Judgments when DC fields are already created by NSW JC and ready for data entry.
9. Training roll-out to all PngLIN users within Port Moresby and around the country, commencing with Lae, Mt Hagen, Kokopo, Madang, Alotau, Wewak and later the rest of PNG.
10. PngLIN restructure submitted through the Registry Restructure to be implemented immediately if approved.
11. Annual subscription fee of K500 for every private lawyer who are accessing PngLIN when it launched officially in 2022. Payment should be done through PNG Law Society when paying for their Practicing Certificate and the amount be transferred to the Supreme and National Courts of PNG.
12. Finalize PngLIN User Policy before the launching of PngLIN. The policy must also capture the subscription fees.
13. Customary Law (including Provincial Laws) and Village Court Judgments are to be captured in PngLIN for the benefit of lower courts and the country. To implement this feature, a feasibility study MUST be carried out to pilot locations around Papua New Guinea. The objective of this trip will be to liase

with Provincial Administrators and officers on the ground regarding data collection to build up these new features mentioned.

    a.   Lae, Morobe Province
    b.   Daru, Western Province
    c.   Kokopo, East New Britain Province
    d.   Wabag, Enga Province
    e.   Mt Hagen, Western Highlands Province
    f.   Kavieng, New Ireland Province

14. Engagement of a Lawyer in this PngLIN project, as soon as possible, to build up the changes in Legislation menu of PngLIN and make amendments where necessary. This lawyer will be seconded from within NJSS or from another government agency and will assist PngLIN for six months.