

# Pacific Judicial Strengthening Initiative & University of the South Pacific

## CERTIFICATE & DIPLOMA OF JUSTICE Concept Note: Gateway Project

### Overview

At the Chief Justices’ Leadership Forum held in Port Moresby on 7-9 September 2016, stakeholders endorsed the Preliminary Assessment to introduce a ‘Certificate of Justice’ for non-law qualified new entrants to the judicial and court service. Chief Justices decided to initiate consultations with the University of South Pacific to explore interest to introduce a Certificate of Justice.

The purpose of this Concept Note is threefold to: (i) report on discussions with USP to develop a *Certificate & Diploma of Justice*; (ii) enable stakeholders to consider the curriculum framework and costing; and (iii) identify and address key decisions and next steps, including:

- Endorse, or refine, curriculum framework and costing
- Establish sub-committee to oversee project between meetings
- Formalize relations with USP possibly by MOU
- Nominate School of Law as counterpart body to Vice Chancellor
- Nominate PICs for pilot phase during 2018-9
- Settle participation guidelines:
  - Entry qualifications
  - Incentives: study-leave, promotion
  - Eligibility for financial assistance using Leadership Incentive Fund.

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**Livingston Armytage**  
13 March 2017.



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### a. Context

At the Chief Justices' Leadership Forum held in Port Moresby on 7-9 September 2016, stakeholders endorsed the Preliminary Assessment to develop an educational process and qualification for non-law qualified new entrants to the judicial and court service through a 'Certificate of Justice', within a Pacific-based training institution (as re-attached). Chief Justices decided that PJSI take further steps to initiate consultations with selected training provider(s), specifically including USP Law School and/or USP TAFE, to explore interest to introduce a *Certificate of Justice*.

PJSI's Technical Director, Dr Livingston Armytage, visited USP's School of Law, Port Vila Vanuatu, between 30 January-4 February 2017, to hold preliminary discussions on a collaborative relationship for a Certificate and Diploma of Justice (C&DoJ) with Head of School Professor Eric Colvin, Professor Don Paterson and Deputy Head of School Dr Anita Jowitt. These discussions were very positive, as outlined below.

The purpose of this Concept Note is to:

- report on discussions with USP to develop a Certificate & Diploma of Justice,
- enable stakeholders to consider the curriculum framework,
- identify and address key decisions and next steps.

### b. Concept: Certificate & Diploma of Justice

This 'gateway' project will be conducted in collaboration between the Pacific Judicial Strengthening Initiative lead by the Chief Justices of 14 Pacific Island Countries (PJSI), and the University of the South Pacific (USP)<sup>1</sup>. It aims to establish institutional capacity to induct and train lay adjudicators and court staff across the Pacific region. This objective will be attained by introducing a gateway of two new programs being an entry-level C&DoJ for new and existing officers of the judicial services across the Pacific. These programs will induct trainees on the fundamental aspects of justice at sub-degree level.

### c. Constituents/trainees

The issue of constituency is threshold and complex: PJSI focuses on strengthening the courts, which in turn review and co-exist with customary and/or hybrid judicial actors, for example: Island/Village Magistrates, Commissioners and JPs (by various names). Because these actors may in practice exercise hybrid customary roles, the dichotomy of formal/customary actors may not

<sup>1</sup> These PICs comprise the Cook Islands, Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu. PJSI is funded by the Government of New Zealand and managed by the Federal Court of Australia.



be useful. It may be more useful to focus on those who work in ‘courts’ or ‘tribunals’ that resolve ‘disputes’ subject to the constitution and laws of each PIC, who lack any legal qualifications. In that sense, the C&DoJ will be directed to those lay actors who already exercise a role in those courts (however named) or who may aspire to.

More specifically, trainees will be selected from two occupational types – adjudicators and administrators – who will be *streamed* after the entry-level Certificate at the second level of Diploma:

- a. adjudicators - being lay magistrates and commissioners – however named: island/village/municipal/community/land courts – who are authorized by state law to resolve disputes (eg PNG’s Village Court, Vanuatu’s Island Court) subject to the constitution and laws of each PIC;
- b. judicial administrators – being court officers – however named: registry staff, judges’ associates – who administer/manage hearings and proceedings.

The C&DoJ will not target those wanting to join the private bar, paralegals, police or prosecutors who appear before the courts.

#### d. Demand assessment

PJSI conducted a needs assessment in early 2016. This assessment provided the basis for PJSI’s Activity Design Document, and a detailed extract of this data has been shared with USP. Additionally, PJSI conducted a census of judicial populations across the region in 2013, which has also been shared with USP and will be updated in early 2017. It is estimated that the ‘market’ populations of potential trainees is approximately:

- lay adjudicators: 5 000+/-
- court officers: 10,000+/- .

Because they are new, it is difficult to quantify demand for these programs prior to piloting in 2018. Initial annual demand may be pent-up (that is, uncharacteristically high at about 100), but may alternatively be slow to mobilise (30+). Based on available census and our experience working across the region, it is estimated that the ‘demand’ for these programs will stabilize after piloting in about Year 3 (2020) in a range of 50-75 new trainees each year across PICs. USP will indicate whether it needs to undertake any additional survey.

#### e. Program objectives

The program-level objectives (that is for both Certificate and Diploma together) of the C&DoJ are to:

- introduce and induct new and prospective officers to the courts that administer law under the constitution of each PIC who do not hold any legal qualification
- raise the competence of new and existing lay court actors, whether adjudicators or administrators
- introduce an educational stairway for lay court actors, whether adjudicators or administrators.



## f. Program outcomes

As the result of successfully completing this program, trainees will be able to:

1. understand the roles of courts in the framework of government
2. understand and distinguish major types of laws
3. understand and apply the principles of fair trial
4. understand and apply the principles of professionalism and ethics
5. understand and apply the principles of civil and criminal law and procedure.

## g. Curriculum framework

USP will introduce an entry-level program comprising two segments: (i) Certificate (x6 units), and (ii) Diploma of Justice (total: x12 units). Successful completion of the Certificate will be the exclusive prerequisite and entry requirement to the Diploma.

### 1. Entry-level: Certificate of Justice (6 units)

The entry-level Certificate would comprise x6 core courses. Addressing the needs identified in PJSI's needs assessment of 2016, it is expected that these core courses will comprise the following:-

- 1 Introduction to Law  
Constitutional framework, role and function of parliament and the courts, separation of powers, including the justice system/hierarchy, roles and responsibilities of court actors and other justice sector actors: prosecutors, police, bar, prisons, parole.
- 2 Principles of Justice & Due Process  
Rules of fair trial, substantive and procedural justice, human rights, judicial review, adversarial and inquisitorial models, onus/burden of proof.
- 3 Types of Law  
Criminal, civil, custom justice
- 4 Professionalism  
Judicial ethics (Bangalore Declaration), service delivery, customer service, work practices, timeliness, respect, access to justice, equality: gender/disability; efficiency - case management and administration.
- 5 Criminal Law & Procedure: 1  
Introduction to criminal law and procedure, evidence and sentencing
- 6 Civil Law & Procedure: 1  
Introduction to civil law and procedure: land, family, tort, debt, contract ...

In addition, students who have not completed Form 6 English will be required to complete English (USP ref.: LLP14).



It is expected that study-loads will be 4-6 hours per course per week. Each course will be 14-weeks in length. It is expected the certificate will be completed in one year.

All training will be in English; hence trainees will be required to be competent in written and oral language. Note: English will be (i) a pre-qualifying entry requirement (LLP13), and (ii) a course requirement in both the Certificate and Diploma (LLP14 and LLP15).

The Certificate will be an exit-level qualification or an entry requirement for the Diploma.

## 2. Diploma of Justice (12 units)

Successful completion of 6 units for the Certificate forms part of the Diploma, and is the entry requirement for the Diploma. It is expected that completion of the diploma will require a second year of studies comprising:

- 7 Criminal Law & Procedure: 2  
Advanced criminal law and procedure, evidence and sentencing
- 8 Civil Law & Procedure: 2  
Advanced civil law and procedure: land, family, tort, debt, contract ...
- 9 Court-related Project  
To be settled between USP and court-based supervisor
- 10 English for Court Actors –  
Special language and expression used in courts;

*Streaming* will be introduced at this level for *adjudicators* and *administrators*:

- 11 Applying Principles of Fair Trial: 1 (*Adjudication* stream)  
Judicial process, research, reasoning, decision-making; or,
  - 12 Applying Principles of Fair Trial: 2 (*Adjudication* stream)  
Judicial process, research, reasoning, decision-making;
- or,
- 13 Applying Principles of Management: 1 (*Administration* stream)  
Office management, diary management, hearing management, case management, ICT, staff management
  - 14 Applying Principles of Management: 2 (*Administration* stream)  
Office management, diary management, hearing management, case management, ICT, staff management.

## 3. Accreditation

Students for have successfully completed the Diploma will be eligible for entry to the Degree in Law. Completion of the Diploma will qualify students for the purposes of mature entry.



## **h. Entry qualifications**

Noting the vision of this project is to induct and educate new entrants to judicial service, and that many court actors across the region are selected on the basis of community standing, it is proposed the entry-level qualification should be High School Year 4 (or 10) with a minimum of 2 years relevant work experience and adequate levels of English expression (LLP13 will be a pre-qualifying entry requirement). Entrants at this level must be supported by a written recommendation of the Chief Justice/Registrar of the relevant PIC, during the piloting phase (2018/9).

After the pilot phase (2020+), an alternative entry requirement for prospective new entrants to the courts with Year 6 will not require relevant work experience or supporting recommendation.



### i. Collaborative relations, governance and partnering

Professor Colvin describes this project as ‘fantastic’ and one in which USP is likely to want to collaborate. The School of Law offered a Certificate of Law in 1985 prior to introduction of its Bachelor of Laws (LLB) program, and this in a modified format continues to be offered on occasion. Accordingly, it feels comfortable to extend into a Certificate and Diploma of Justice building on this experience and resources, though these will require updating, revision and redesign for remote delivery.

Preliminary discussions have been held with the School of Law. USP may however want to administer the C&DoJ through ‘Pacific TAFE’. While this is an internal institutional consideration, given the technical nature of law, some concerns have been expressed about structuring appropriate technical oversight and quality assurance. Chief Justices of the region may wish to voice their preference to USP’s Vice Chancellor on how this relationship and oversight should be structured – that is, with the School of Law or Pacific TAFE.

In relation to governance, it is understood that educational concerns are primarily the domain of USP. It may be anticipated that PJSI’s Chief Justices will require an active role in settling the curriculum framework, as well as in the content and quality of courses. Any governance framework should embody and reflect these joint interests. It is proposed that entering an MOU arrangement between USP and PJSI may be an appropriate means of formalizing any collaborative arrangement.

In due course, during implementation, it may be helpful for PJSI to support USP develop a strategy for in-country and remote technical assistance to be supplied by counterpart institutions in Australia and New Zealand to provide and build institutional and organizational capacity, share curricula/courseware, and enter twinning arrangements. Out-of-pocket expenses associated with support / partnership will need to be discussed with providers to assess the extent to which it is considered that participating provider courts have the resources available to make such investments over time.

### j. USP resources

USP will be responsible for developing/writing the courses and materials (subject to the guidance and endorsement of PJSI’s Chief Justices), administering the courses, assessment/examination and qualification.

### k. Instructional design: blended and remote modalities

Courseware will be developed and piloted in two alternative modalities: blended and remote. The blended modality will combine on-line remote delivery supplemented by cohort-based (face-2-face) delivery. This modality recognizes that retention and success rates are generally stronger with face-to-face modalities, more ‘friendly’ for those most comfortable in oral/traditional cultures, and that Wi-Fi access continues to be restricted/non-existent in some remote courts across the region. The remote modality will pilot on-line delivery, possibly using USP’s existing satellite hubs, including use of data-sticks, on-line discussion fora and video-conferencing. The feasibility and educational effectiveness of each delivery model will be core to evaluation of the pilot, as will relative costing and value-for-money considerations.



## I. Smaller jurisdictions

In its regional law degree, USP has found over the years that there is an educational need to focus on jurisdiction-specific law and procedures; given this, case studies have often showcased specific PIC examples. This is appropriate where these PICs supply many participants; but it is noted that measures are required to ensure that smaller PICs are not de facto disadvantaged.

### m. Costing

USP initially expects to offer this program on a user-pay self-funding basis – either by the PIC, courts or individuals. Scholarship sponsorship by donors may be included.

Professor Colin has advised that the University will charge one-half of the tuition fee for a LLB-level course for each of the 6 courses within the Certificates. What this means depends on the campus. Every student registers with their local campus, through which fees are paid in local currency. The fees charged vary from campus to campus – perhaps because of historical fluctuations in exchange rates. For Kiribati and Nauru, the fees will be A\$258 per course and A\$1548 for a whole Certificate; for Fiji, F\$305 per course and F\$1830 for a whole Certificate; for Samoa, WST535 per course and WST3,210 for the whole Certificate. This is a temporary arrangement that need not determine the costing for the Certificate in Justice. For that, fees will need to be proposed to the University Council. However, a course-fee of something like one-half of the tuition fee for a LLB course might be reasonable. Given the University overhead, the coordinator's fee and the operating expenses, USP will need about 20 students per cohort in order to break-even and, ideally, would be looking for 25 in order to make a small return for all the work.

Consideration could be given to allowing course fees to be eligible for application for a grant from PJSI's Leadership Incentive Fund during the pilot phase.

### n. Current issues for decision

This meeting provides Chief Justices with the opportunity to address a range of issues to plan the timely development and piloting of the C&DoJ, including:

- Endorse, or refine, curriculum framework and costing
- Establish sub-committee to oversee project between meetings
- Formalize relations with USP possibly by MOU
- Nominate School of Law as counterpart body to Vice Chancellor
- Nominate PICs for pilot phase during 2018-9
- Settle participation guidelines:
  - Entry qualifications
  - Incentives: study-leave, promotion
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### o. Work plan and milestones

Once stakeholders endorse the curriculum concept, USP can proceed with detailed preparations. The University operates an elaborate approval process for approval of new courses. This process





traverses from the School of Law to the Faculty of Arts, the Academic Board and finally the University Senate. Because that process can be lengthy (1-2 years), it is proposed to adopt a parallel-track approval process by PJSI and USP respectively to expedite piloting. USP anticipates that it can confirm pilot dates at meeting of Faculty Committee in July to enable the program to be piloted during 2018-9 in selected mid-size countries from Polynesia, Melanesia and Micronesia (TBA). It will be evaluated at the end of 2019. The MOU will specify evaluation requirements and process. The program will then be refined if/as required, and extended until completion of PJSI at about the end of 2021. At that stage, it is intended that the program will be freestanding and sustainable.

### Key Milestones

	Action	PJSI	USP
2017	1. <b>Approval of concept note</b> and curriculum framework 2. CJs' letter to VC.USP 3. Design courses 4. <b>Confirmation of pilot dates</b> 5. Approval of course outlines 6. Selection of pilot PICs	CJ's meeting: 3-5/4/17, Samoa  IEC meeting: 25/9/17, Tonga	B.o.Studies >6/17 Fac C'tee >7/17 Acad Prog >8/17 Senate > 9/17
2018	7. <b>Pilot</b> – Certificate Y1 8. <b>Evaluation</b> – Certificate 9. Revise Certificate		February 2018+ November 2018
2019	10. <b>Pilot</b> – Diploma Y1 11. Rerun - Certificate Y2 12. <b>Evaluation</b> – Diploma 13. Revise Program		February 2019+ November 2019
2020	14. Rerun – Certificate Y3 15. Rerun - Diploma Y2		February 2020
2021	16. Rerun – Certificate Y4 17. Rerun - Diploma Y3		February 2020 >December 2021

Additional issues may require consideration in due course, including:

1. *Approval of courses* – it is proposed that stakeholders – represented by sub-committee – review/approve courses prior to the IEC meeting in September.
2. *Evaluation of pilot program* – it is proposed that the MOU specify the evaluation requirements and process for the pilot program.
1. *Advanced-level Diploma* – depending on evaluation and the sustained level of demand, it may be appropriate to explore the feasibility for an Advanced-level Diploma of Justice in due course.

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