

To Give Play to the Function of the Highest Judicial Organ, and to Improve Judicial Justice and Efficiency (Translation)

**Yang Wanming, Justice, Vice President, President of the First Circuit Court of
the Supreme People's Court of the People's Republic of China**

Distinguished representatives and guests,

Ladies and gentlemen, dear friends,

Good morning!

On the occasion of the tenth anniversary of the proposal of the “Belt & Road Initiative”, I am really delighted and honored to be here today in Quanzhou, Fujian, where the ancient Maritime Silk Road started, and to have dialogues and share experiences with the justices from countries along the Maritime Silk Road. Now, focusing on the topic of “**The Role the Supreme People's Court of the People's Republic of China (SPC) Plays in Upholding Justice and Improving Efficiency**”, I would like to brief you on the main measures and achievements of SPC in realizing judicial justice and efficiency.

The court system and trial system of China are established based on the national conditions of China and are established with the Constitution of the People's Republic of China (hereinafter referred to as the Constitution) and the Organization Law of the People's Courts of the People's Republic of China (hereinafter referred to as the Organization law of the People's Courts) as the institutional framework. China practices a system of courts characterized by ‘four levels and two instances of trials’, with nationwide courts divided into the Primary People's Courts, the Intermediate People's Courts, the High People's Courts, and the Supreme People's Courts. The Primary People's Courts, the Intermediate People's Courts, and the High People's Courts are local people's courts, in line with the administrative divisions of counties, cities, and provinces. In parallel, there are specialized people's courts set up for the trial of specialized cases such as military courts and maritime courts. China is a unitary country with only one Supreme Court. The SPC is responsible for supervising and guiding the trial work of local courts and specialized courts at all levels throughout the country and plays a special and important role in promoting the “justice and efficiency” of the entire judicial system.

1.To give play to the judicial functions and uphold social fairness and justice through properly solving major cases.

According to the Constitution, and the Organization law of the People's Courts, the SPC is the highest judicial organ of China, and the trial of cases is the crucial function of the SPC. The SPC mainly hears cases of second instance and retrial and is responsible for reviewing death penalty

cases. Although the law stipulates that the SPC can hear first instance cases with significant national influence, in recent years, such cases have concentrated in the field of international commerce.

From 2018 to 2022, the SPC accepted 149,000 cases, concluded 145,000 cases, and tried an average of about 30,000 cases annually. As the highest judicial organ, handling too many or too few cases is not an ideal state. In recent years, by improving the positioning reform of the trial level functions of the four-level courts, we have further strengthened the role of the SPC in supervising and guiding national trial work and unifying legal application standards from two aspects. First, we have improved the jurisdiction mechanism for adjudicating cases to higher courts. Even if the subject matter of a case is not significant, as long as it touches upon important public interests or has legal application guidance significance, it can be elevated to a higher level of court for trial, ensuring the typical cases can be tried by the SPC in the second instance or retrial stage. Secondly, we request that the judgments made by the SPC in handling typical cases should be retrieved by lower courts as a reference for similar cases, maintaining unified judgment standards and benchmarks to avoid similar problems from repeatedly happening and similar cases from being brought to the SPC.

II. To strengthen the trial guidance and facilitate the unification of legal application standards through improving judicial adjudication rules.

China is a statutory law country with 3,517 courts and more than 126,000 quota judges. To achieve judicial justice, we need to try our best to overcome the differences in the understanding of legal provisions among different courts and judges. The Constitution and the Organization law of the People's Courts entrust the SPC with the function of supervising and guiding nationwide courts in their judicial work. Such supervision and guidance can not only rely on individual case judgment, but also be achieved by judicial interpretations promulgation, judicial policies clarification, trial mechanisms and management improvement, and other means. Here I would like to cite a case with Chinese characteristics. In accordance with the Legislation Law of the People's Republic of China, the SPC can interpret the specific application of law in judicial work to clarify how relevant laws are applied in judicial practice. These judicial interpretations shall be submitted to the legislature for examination and filing and shall have legal effect. In the past five years alone, the SPC has formulated and issued 123 judicial interpretations, covering various fields such as financial innovation and development, environmental and resource protection, protection of minors and combating cybercrime.

In addition to judicial interpretations, the SPC also has the power to issue guiding cases. 119 cases have been issued in the past five years. These cases were from effective judgments of courts at different levels, playing a demonstration and guiding role according to the law, and courts at all levels should refer to those cases when trying similar cases. Since this year, the SPC has also set up the "Legal Answers Website", which is an advisory platform on the application of law covering the fourth level court system in China. Since its launch less than four months ago, it has collected 60,370 legal application issues from courts at all levels, solved 37,232 difficult and complex issues,

and has effectively driven the unification of the application of law. At present, we are also actively building the “People’s Court Case Library”, gathering all kinds of guiding cases, reference cases and typical cases, forming a resource pool for inquiring and searching similar cases, promoting the unification of judgment standards, and preventing “different judgments for similar cases”.

III. To promote judicial system reform, and improve the trial quality and efficiency through mechanism and institutional innovation.

In recent years, the number of cases accepted by Chinese courts has continued to grow, with more than 33.7 million cases in 2022. Faced with enormous cases, how to realize the organic unity and effective consideration of judicial justice and efficiency is a major challenge confronting us. To this end, we have worked hard to remove institutional barriers affecting judicial justice and efficiency by deepening the reform of the judicial system. In allocating judicial resources, we have reformed the judge quota system, created the judge assistant system, selected more than 120,000 excellent judges from the original 210,000 judges, and concentrated 85% of the court’s staff on the front line of trial. Meanwhile, we have strengthened the guarantee of performance of duties, and comprehensively optimized the structure of trial resources. In terms of litigation system and mechanism, we have reformed the system of trying criminal cases under summary procedures and the system of leniency for guilty pleas and punishment acceptance. We promoted the reform of the system of separating complicated and simple civil and administrative cases, explored the establishment of an online litigation mechanism, accelerated the trials on the premise of ensuring the quality of cases and strictly abiding by the bottom line of judicial justice, and effectively met the people’s judicial needs for fair, efficient and convenient litigation. Since this year, Chief Justice ZHANG Jun put forward the guiding work principle as “to concretely carry out active judiciary in the new era, and to serve and safeguard Chinese modernization through modernizing the trial work”. Here, the concept of “active judiciary” means to ensure judicial justice while balancing both efficiency and effectiveness, give play to the subjective initiative of courts at all levels by strengthening the governance of litigation sources, professional guidance and judicial advice, reduce disputes and case increments fundamentally from the source, and give full play to the functional role of judicial trials in promoting national and social governance.

Distinguished guests, along the Maritime Silk Road, countries are land-sea neighbors living in proximity, and are also important partners. We sincerely hope there will be in-depth communications and cooperation between the SPC and all of you. Let us work together and contribute our wisdom and strength to better realizing judicial justice and efficiency, and to carrying forward the civilized development of the rule of law in the world.

Thank you!

Role of Supreme Court in Safeguarding Justice and improving Efficiency

Muhammad Syarifuddin, Chief Justice of the Supreme Court of the Republic of Indonesia

Honorable Zhang Jun President, Supreme People Court of China,

Hon Justice Jin Yinqiang, President of Fujian High People's Court of the People's Republic of China, Chair of the Session,

Honorable Leaders of Fujian province,

Honorable Speakers, Justices, Judges, Colleagues from around the world

Participants of The Maritime Silk Road International Forum on Judicial Cooperation

Good Morning,

Warm Greetings,

May peace be with us all,

It is truly a privilege to be here among the distinguished participants of the forum The Maritime Silk Road International Forum on Judicial Cooperation 2023.

Chief Justices,

Ladies And Gentlemen

In the era of ever-increasing global trade and economic integration, it is very important for all to continue working together to discuss on how we can together respond to challenges faced in the area of legal and judicial matter.

Even though it is not directly related, the existence of a harmonious legal system that is able to provide support for resolving cross-border international commercial disputes is an important prerequisite for realizing the success the Maritime Silk Road Initiative as the big plan that has been mutually agreed upon.

The topic I will talk about this morning is the Role of the Supreme Court in Safeguarding Justice and Improving Efficiency. I chose this, because based on our experience, the Supreme Court of the Republic of Indonesia as the apex of judicial power in Indonesia has indeed experienced significant transformations from how this role was carried out.

As the implementer of the highest judicial power, the Supreme Court has additional functions apart from its conventional function of hearing final appeal from lower court. In conventional practices, our courts shape the laws and to certain extent create norms as well as laws through the interpretation of statutory regulations which then become precedents. This system allows Supreme Court to safeguard justices and promote efficiency indirectly through its opinion and consideration,

but nowadays the situation demands much more than this our role has developed much.

In our jurisdiction, in addition to judicial decision making function, the Supreme Court of the Republic of Indonesia also has other functions such as, the Function to conduct judicial review, Advisory Function, Supervisory Function, Regulating Function, namely regulating matters necessary for the proper administration of justice in absence of specific norms regulated by law and making regulations that is deemed necessary to fulfill procedural law and finally, the Administrative Function, namely regulating and formulating policies in the field of organization and work procedures, formulating administrative technical policies and carrying out management of state property.

Chief Justices,

Ladies And Gentlemen

The increasing flow of global trade, regionalization of economy, and fast development of information communication and technology, undoubtedly force us, the supreme court to do even more, Court no longer can sit quietly at the side of the scene and run its reactive role, but it is now required to proactively anticipating what comes ahead. This is so true in our experience in relation to explore ways to safeguard justices and improve efficiency.

This is why, for the past decade, our supreme court has also implemented its rulemaking function extensively to promote legal certainty and efficiency. Every year the Supreme Court of the Republic of Indonesia issues various legal rules in the form of regulations (Regulations of the Supreme Court of the Republic of Indonesia) as well as internal regulations that have external impacts. In fact, in 2022 alone, we issue 8 Regulations and in the first semester 2023, already 5 Regulations issued.

Chief Justices,

Ladies And Gentlemen

Indonesia is a quite large country with more than 276 million people inhabiting a very large archipelago, consisting of 17,000 islands. Access to justice is a real problem. To justice is delivered by more than 900 court offices, more than 8,000 judges and 32,000 court employees throughout Indonesia.

We view court modernization using information technology as the best way to bring people closer to the courts, encourage openness, and increase the efficiency of court services in terms of time and costs.

Since year 2007 the Indonesian Supreme Court has begun its long journey to implement Information & Technology in its court system. First, we established procedures for publishing court decisions online, to ensure transparency and accountability of court processes. To date, the Supreme Court's national decision database has makes available more than 8 million decisions online, with an average of 80,000 more decisions uploaded every month. Since 2012, Supreme Court has also

introduced a case tracking system which makes the case administration process in court available online and the information can be accessed by parties in real time. This system is available in all courts in Indonesia, making it easy for the public to get complete information about the course of their case from the time it is registered to completion.

The emergence of the Covid-19 pandemic has actually become an opportunity to accelerate the transformation from conventional justice to modern justice. In 2018-2022 the Supreme Court prepared and accelerate the use of e-Court and e-Litigation which changed the administration of criminal and civil justice towards a digital system. This system allows the public to file lawsuits in the fields of civil, special civil, religious civil and state administration matters electronically from anywhere to the competent court via one single e-court portal. Parties who may be in distant and remote locations do not need to visit the courthouse in person, so the litigation process becomes much faster, simpler and costs efficient.

Chief Justices,

Ladies and Gentlemen

Implementing an information system in the case management system and publishing decisions so that they can be accessed by the public is one of the Supreme Court's efforts to maintain justice and increase efficiency. It is hoped that the use of Information Technology in aspects of case management, public access to case information and court decisions will increase the literacy of justice seekers, and eliminate information gaps, so that the public can better understand what is their right, and furthermore, be empowered to make informed decisions as early as possible about their rights and obligation.

The connection with the Maritime Silk Road initiative is that I think the transparency and efficiency that has been initiated over the years shall serve as guarantee of the Indonesian Supreme Court's commitment to the supremacy of law and efficiency for everyone.

Chief Justices,

Ladies and Gentlemen

The initiatives such as Belt and Road, and 21st Century Maritime Silk Road would significantly boost trade, investment as well as movement of people within the region, but it will also bring legal consequences as well. Borderless trade and investment will increase the likelihood of civil disputes among legal subject of different nations.

Large scale Trade will demand for a more uniform and predictable legal system across the region, to protect and provide certainty to the parties participating in the initiatives. This demand is considered as addition to the basic requirement for transparent, effective and efficient legal system and dispute resolution processes.

While unification and harmonization of law has always been difficult task, it needs to be continuously promoted, as trading activities would benefit significantly from a transparent,

consistent, and harmonized legal system.

The role of apex judiciary to safeguard justice and improve efficiency is critical to support these, and our experience shows that in addition to the traditional judicial decision making, there is also opportunities to achieve them through other ways.

Thank you Chief Justice, for your attention, and I wish you all a productive, successful forum as well as health and safety.

May Peace Be Upon You.

The Role of the Supreme Court in Safeguarding Justice and Improving Efficiency

Bazarbekov Zamirbek, Chief Justice of the Supreme Court of the Kyrgyz Republic

Dear Mr Zhang Jun!

Dear participants and guests of the International Forum!

I would like to begin my report by noting that the judicial system is the backbone of the rule of law and the guarantor of legality in society, since it is the judiciary that exercises a power not inherent in other branches of State power, namely justice, the main purpose of which is to ensure the effective protection of the rights and legitimate interests of individuals and organizations.

In the Kyrgyz Republic, the court system consists of three tiers. Courts of first instance, or in other words, courts of the first level, where citizens and legal entities apply for protection of their rights. The courts of the next level are courts of appeal, which review judicial acts of courts of the first level that have not entered into legal force. And the Supreme Court of the Kyrgyz Republic acts as a cassation instance.

The functions of the Supreme Court of the Kyrgyz Republic, on the one hand, are unified in nature with the competence of lower courts - it is the administration of justice, on the other hand, have peculiarities due to the leading function of this body.

This explains the essential role of the Supreme Court in safeguarding justice and improving efficiency, which is predetermined by its special status and special place in the system of courts, as the Supreme Court is one of the pillars in the system of separation of powers. It is a unique judicial institution with an exceptional degree of influence. Only the Supreme Court exercises special powers not possessed by the courts of first instance and appeal.

Thus, according to the Constitution of the Kyrgyz Republic, the Supreme Court is the highest body of judicial power. It carries out cassation review of judicial acts issued by the courts of first and appellate instances, ensuring the final resolution of legal disputes. Thus, the Supreme Court, being the last judicial instance, is the guarantor of the protection of the rights, freedoms and legitimate interests of citizens enshrined in the Constitution of Kyrgyzstan and their restoration in case of violation, and the decisions of the Supreme Court play an important role in maintaining public confidence in the legal system.

It is difficult to overestimate the role of the Supreme Court, or rather its Plenum, in the formation of uniform judicial practice in our country so that the Constitution and other normative legal acts of the country are applied correctly and uniformly by all courts throughout its territory.

At the same time, the explanation of the Plenum of the Supreme Court is given in the form of a

statement, which is based on the generalization of court practice, analysis of court statistics and court decisions, and is binding on all courts and judges of the Kyrgyz Republic.

Clarifications of the Plenum of the Supreme Court and the development of a unified judicial practice are necessary to improve the efficiency of justice, as they are based on the requirements of the law, contribute to the correct understanding and application of the rules of law, ensure a uniform approach of courts in resolving disputes on similar situations and help to avoid miscarriages of justice. Also, judicial practice always serves to achieve the main goal of justice - the adoption of a lawful and well-founded judicial act.

The organization of training for judges plays an important role in improving the efficiency of justice. The Supreme Court of the Kyrgyz Republic has a Higher School of Justice, the main task of which is to train and improve the qualifications of our country's judges by organizing training seminars on a regular basis. And here I would like to recall the words of the great Chinese philosopher and thinker Confucius, who said that "Success depends on prior preparation, and without such preparation, failure is bound to happen". Therefore, the Supreme Court pays great attention to the training and education of judges, as it is necessary to ensure a high level of legal competence and professionalism of judges, and the quality of their administration of justice.

In addition, the highest judicial body works to counter corruption in the judiciary. It promotes the ethical behavior of judges and their adherence to high standards of integrity.

In order to ensure and improve the efficiency of justice, the Supreme Court is actively working on the digitalization of the judicial system. Undoubtedly, the level of digitalization of our justice system cannot compare with that of the People's Republic of China, which is a model of the latest achievements in the development and implementation of modern digital solutions in the judicial infrastructure. In this area, we are only at the initial stage. However, as the philosopher Confucius said: "No matter how fast you move towards your goal, the main thing is not to stop". Therefore, work towards this direction is on the way, and we hope that eventually we will be able to achieve a complete transition to digitalization and electronic court proceedings.

In addition, our country has developed information on the activities of the courts through electronic sources. The website of the Supreme Court of the Kyrgyz Republic publishes all information on the activities and organization of not only the highest judicial body, but also information on local courts, lists of cases to be heard, texts of judicial acts, resolutions of the Plenum of the Supreme Court, and generalizations of judicial practice. At the same time, judicial acts, in order to protect the personal data of litigants and not to violate their rights, are published only after depersonalization of their personal data.

Another important aspect to be noted is the Supreme Court's co-operation with civil society institutions and the media in order to provide objective, reliable and prompt public information on the work of the courts. In this matter, the Supreme Court proceeds from the premise that justice must not only be done, but people must see that it really exists.

Thus, it is safe to say that the Supreme Court of the Kyrgyz Republic is the most important institution in ensuring the rule of law, protection of individual rights, effective and fair administration of justice in Kyrgyzstan. Its decisions and actions have a significant impact on the legal situation in the country. In other words, the role of the Supreme Court is key in shaping the legal landscape and ensuring the effective and fair administration of justice in Kyrgyzstan. All of this ultimately contributes to the continuous development and improvement of the judicial system and the efficiency of justice in the country.

Thank you for your attention!

The Role of the Supreme Court in Safeguarding Justice and Improving Efficiency

Gibuma Gibbs Salika, Chief Justice of the Independent State of Papua New Guinea

Introduction

It gives me great pleasure to have been invited to speak at this Maritime Silk Road (Quanzhou) International Forum on Judicial Cooperation. The hospitality that my delegation and I have received has been warm and we are very happy to be here with you today.

As Chief Justice of the Independent State of Papua New Guinea, I am privileged to lead our Judiciary which handles access to justice for our country of approximately 10 million people including adjudication of criminal and civil matters in the National and Supreme Courts.

The Supreme Court of Papua New Guinea is the final appellate court whose decisions become precedent and binding on the lower courts. As such, it has a significant role in its impact and on justice. Whether it is interpreting a constitutional provision or making a determination on an election petition or a criminal conviction, the powers of the court are clear and relevant to upholding the rule of law in our country.

The Jurisprudence of Papua New Guinea has developed over the decades and in my estimation assures court users that there is certainty in law when matters are heard in our courts. The independence of our judiciary provides for the focus of the judiciary being able to fully safeguard justice with the other two branches of government comprised of the legislative and executive recognizing this in supporting the rule of law in Papua New Guinea.

Safeguarding Justice

Our stability as a country is based on fundamental values that we as a people share which are enshrined in our Constitution and for which the courts act as guardians in upholding to further protect the rights of all within Papua New Guinea. It is noteworthy that ensuring that there is public confidence in the Supreme Court is crucial to validating justice¹.

Accessibility to the Supreme Court by litigants and being able to get final decisions with an acceptance of that decision informs on the notion of a fair trial². The focus of our courts in providing the services required by our people to address disputes while also promoting the protection of rights helps to build the value proposition that one can find justice through bringing matters to court.

In developing countries such as Papua New Guinea, there is a constant tension between handling disputes in our traditional ways versus using the court system. In this regard, our Supreme

1. https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2108&context=faculty_scholarship

2. <https://academic.oup.com/book/6558/chapter-abstract/150513446?redirectedFrom=fulltext>

Court works conscientiously to adjudicate matters in the most reasonable time with regard to our Supreme Court rules and procedures, which indicates to parties that coming to court to address disputes is the best way to attain justice.

For many of our people especially in the remote areas of Papua New Guinea where access to justice has been challenged due to the lack of government resources to put in place infrastructure, the Supreme Court has recognized its importance and relevance to safeguarding justice even for such locations.

In Papua New Guinea, the Supreme Court Act provides for the Court's powers and some of its procedures on an appeal from the National Court and gives power for a National Court judge to refer and the Supreme Court to consider questions of law. Other procedures on appeal are contained in rules made by the judges of the Supreme Court. The Constitution gives the court general power to make rules of court (Constitution section 184). The Supreme Court's additional powers to review decisions of the National Court (when an appeal is not available) and to consider references on constitutional issues, are given by the Constitution itself. Procedure in those cases is governed by Rules made by the Judges of the Supreme Court. The Supreme Court is the highest court in Papua New Guinea. It is a court of record, and must therefore keep a record of the proceedings done before it and give a written decision on every proceeding³.

Given that the decisions of the Supreme Court are final it is important that we get it right. We do this to the best of our ability as it directly affects justice for those who are in our courts.

Efficiency

Our Supreme and National Courts have moved to a paperless system. This is to improve efficiency in our case management process and it has also been shown that courts that rely on paper are at high risk and more vulnerable to disasters⁴. Being able to have our Judges dispose of cases in a more efficient and effective manner supports good judicial administration.

It is important that there is transparency and accountability in our courts and so by implementing e-Judiciary services we have been able to improve in court performance. This digital age has transformed the way courts do business and underpins the requirement that an effective and efficient judiciary can no longer operate in a paper-based system given the volume and complexity of matters which require quick response times in the case management process.

Access to justice manifests itself in how well courts operate and overcoming physical barriers including remote area locations⁵. In Papua New Guinea with our e-Judiciary program it is intended for the Supreme Court to be more efficient and user friendly.

Our legal system is based on the common law and stare decisis is a legal principle which directs courts below to be bound by previous decisions of the Supreme court which apply to the case

3. [https://www.pngjudiciary.gov.pg/supreme-court#:~:text=Role%20of%20the%20Supreme%20Court&text=review%20decisions%20made%20by%20the,the%20Constitution%20or%20not\)%3B](https://www.pngjudiciary.gov.pg/supreme-court#:~:text=Role%20of%20the%20Supreme%20Court&text=review%20decisions%20made%20by%20the,the%20Constitution%20or%20not)%3B)

4. <https://anti-corruption.org/wp-content/uploads/2017/05/RBAP-DG-2016-Transparent-n-Accountable-Judiciary.pdf>

5. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/nujsjlry8&div=16&id=&page=>

that they may be presiding over in their court. This creates certainty of law and when one examines efficiency and how the Supreme Court contributes to this, this legal principle has relevance.

As our Supreme Court develops more legal tests which are applicable to various areas of law which are argued before the courts, it assists the courts to be able to quickly apply a remedy without delay.

Conclusion

Our Supreme Court has far-reaching powers and impact on the day-to-day life of the people of Papua New Guinea based on decisions made in court. We continue to strive for methods and procedures to improve our efficiency and effectiveness as a court to improve access to justice. The Judges continuously work in improving competency throughout the judiciary and the court staff to meet the needs of court users in having matters heard in a reasonable time while making decisions.

The challenge that judiciaries face is to improve efficiency and deliver quality judgments that parties accept are fair and transparent. The process by which court decisions are reached are relevant to the public having confidence in the judicial system. I am encouraged through attending this International Forum that the discussions we have on this subject will further enlighten and assist us as Judges on how we can improve our courts to be more responsive to the needs of our stakeholders while developing better and more efficient ways of conducting court business.

There are many challenges which will continue to come our way in the Judiciary, however, we are committed to meeting those challenges. As we deliver on our mandate to improve access to justice for the people in our country and provide justice through our courts, I am of the view that this will strengthen our resolve in safeguarding Justice and improving efficiency.

Thank you listening to me and for being attentive in my brief intervention.

The Role of the Supreme Court in Safeguarding Justice and Improving Efficiency

Satiu Simativa Perese, Chief Justice of the Independent State of Samoa

Honourable Zhang Jun, Chief Justice, President of the Supreme People's Court of the People's Republic of China; esteemed Judges of the People's Republic of China,

Dàjiā hǎo

1. I also extend warm greetings to distinguished delegates of the “Belt and Road” community of nations, gathering here with the common purpose of enhancing judicial exchange to consolidate a stronger consensus on legal cooperation.

2. Allow me to share an observation; the key to building consensus that leads to a consolidation of like-minded cooperation, requires us to familiarise ourselves with each other's legal systems. That is what we from Samoa intend to take home from this important conference; a greater understanding of the philosophical bases of the legal systems of other Forum member countries.

3. To assist with your understanding of the Samoa legal system, I begin with a word on the nature of the Supreme Court in Samoa; this contextualisation leads to a discussion of significant developments in constitutional law in my country in the last few years.

What is the Supreme Court in Samoa?

4. In common law countries, the Supreme Court is generally the Apex court – the highest court in the land. In Samoa, Supreme Court is the guardian of fundamental rights protected and preserved in our founding document – the Constitution of the Independent State of Samoa 1960 – Samoa's supreme law (“the Constitution”). A person must go to the Supreme Court to enforce their right to life; right of personal liberty; freedom from inhumane treatment; freedom from forced labour; right to a fair trial; rights concerning criminal law; freedom of religion; rights concerning religious instruction; rights regarding freedom of speech; assembly, association, movement and residence; rights regarding property; freedom from discriminatory legislation. Before the constitutional change, that I am about to discuss, no other Court in Samoa has first instance power to grant relief.

5. Recent amendments to the Constitution affect the Supreme Court's role under the Constitution. There are now a significant number of disputes involving matters of customary land and chiefly titles, matters of great importance to the everyday conduct of life are no longer the subject of the Supreme Court's oversight.

6. Samoa has two legal systems – the Civil and Criminal jurisdiction administered by the Supreme Court; disputes relating to customary land and chiefly titles are the subject of an independent legal system administered by the Land and Titles Court. Both legal systems may independently hear and determine claims under the Constitution. In other words, as the Land and

Titles Court is not bound by decisions of the Supreme Court on the meaning of the Constitution; the Land and Titles Court can apply its own interpretation of the Constitution. The central difficulty is that where there are different interpretations of the Constitution, as between the two jurisdictions, how might these conflicts be resolved? There is no clear answer. Our country is unique as a common law country, from a legal perspective; the bifurcation of the once solitary legal system is in my respectful view the most significant constitutional development since independence, in 1962.

7. The Supreme Court in addition to safeguarding and protecting fundamental individual rights and liberties protected under the Constitution, has also jurisdiction to determine civil disputes and criminal proceedings.

How does the Supreme Court safeguard justice?

8. My country has a population of only 200,000 people; many more live as part of the Samoan diaspora throughout the world. Our country by size and population is small, certainly when compared with the 15 million people who live in this UNESCO World Heritage city, Quanzhou – the starting point of the ancient Maritime Silk Road. However, as small as we are as a nation, we face the same issues that challenge the most populous and mightiest of nations. These challenges might be identified by asking these rhetorical questions - What is justice? How are competing interests as between citizens and as between citizens and the state resolved?

9. In Samoa, all roads lead to the Constitution. The Constitution establishes three arms of government – the Parliament, Executive, and the Judiciary. In today's independent Samoa the safeguarding justice means the application of the Constitution. It is the Supreme Court's role to interpret the meaning of the Constitution. Further, it is within the Supreme Court's power to declare void any law that is inconsistent with the Constitution, according to its extent. The Supreme Court has carried out these functions for decades. In recent years, the Supreme Court has been asked to decide difficult constitutional questions; in answering them the Supreme Court has interpreted the Constitution as having a central role in the maintenance of the rule of law. I would like to make reference to several recent reported decisions to demonstrate the last point.

10. First, the case of FAST Party v Attorney General [2021] WSSC 24, concerned the scope of the Head of State of Samoa's claim to have powers not specifically provided for in the Constitution but that inhered the office of the titular head of government. The powers were advanced to justify the setting aside of the results of the 2021 General Election, and issuing of writs for a fresh General Election, neither action provided for under the Constitution. The Supreme Court rejected the Head of State's claim. The Court affirmed the supremacy of the Constitution as the supreme law of Samoa, and the alleged powers were unconstitutional; every person was equal before the Constitution and therefore the law. The second decision is Attorney General v Latu [2021] WSCA 6, where the Supreme Court was asked to determine the circumstances by which a government could be formed following the holding of a General Election. The determination affirmed the Supreme Court's commitment to interpret the Constitution to give it the ability to deal with circumstances

that had not been reasonably anticipated by the constitutional framers. This meant, a majority of the Legislative Assembly members elected in the 2021 General Election were able to form a democratically elected government, and reading the oath of office, as taken by a person suitably qualified to take oaths, in a marquee tent outside of Parliament (which had its doors ordered locked by the outgoing caretaker government). The Head of State who would otherwise have administered the oath of office to the Speaker of the Legislative Assembly was absent that day – 24 May 2021. Next are two decisions - *Malielegaoi v Speaker of the Legislative Assembly* [2022] WSSC 35 (Nos.1), which involved an analysis of fundamental rights protected under the constitution and the extent to which they could be ignored by the Legislative Assembly's decisions pursuant to its rules of internal procedure ("standing orders"). The issue involved the process by which a member might be suspended from Parliament, and whether suspended members were entitled to be heard on penalty, in accordance with the constitutional right to natural justice. There then is the associated decision in *Malielegaoi v Speaker of the Legislative Assembly* [2023] WSSC 37 (Nos.2). One of the issues in this matter concerned the legality of internal standing orders and the alleged breach of a member's constitutional right to free speech. The Supreme Court held the standing orders were in breach of the constitutional right of free speech, and it declared the standing orders void, to the extent of its inconsistency with the Constitution.

11. These decisions highlight the Supreme Court's role in reinforcing the Constitution as the supreme law of Samoa, and which does not permit of other sources of power. A Constitution that must be given a generous interpretation to avoid the austerity of tabulated legalism; this means having a respect for traditions and usages which have given meaning to the language, and of an approach with an open mind. Our approach in Samoa is to give primary attention to the words used, whilst guarding against any tendency to interpret them in a mechanical or pedantic way.

12. The esteemed members of the judiciary of the People's Republic of China, and honourable judges and delegates, are likely to recognise the issues in the *Malielegaoi* (Nos 1 and 2) concern the delicate relationship between two arms of a Westminster styled government. The decisions show that where the state's actions or actors are in breach of or frustrate the operation of the constitution, the Supreme Court will interpret the Constitution in a manner that will protect the principles of democratic government and the institutions of government. Further, the Parliament is to be attributed with the intention to comply with the constitutional rights preserved and protected under the Constitution.

13. There are other ways by which the Samoan Supreme Court seeks to safeguard justice. These include:

- the issue of reasoned decisions in a timely way;
- the presumption that hearings are held in public;
- initiatives that promote access to justice;
- managing and addressing judges' well-being through the appropriate allocation of workload

and judgment writing time.

How does the Supreme Court improve efficiency?

14. The Court has a strong commitment to efficiency. Some examples of our ongoing work include the revision of procedural rules; review of case management procedures; and the implementation of an electronic document tracking system that will enable a better tracking of files, that, up until now, have been manually administered. It is hoped the new tracking system will also give better insight into the operations and delivery, of the Court's core functions; indeed, justifying adjustments and improvements as may be necessary.

15. Finally, I would like to express my sincere gratitude to the People's Republic of China for generously providing for us our current court house located at Tiafau, Mulinu'u, the seat of Samoa's government. The building is going on 15 years old, and it has had a fair amount of use in its time. It is a landmark in Samoa as the place for the administration of justice.

16. We extend our warmest thanks for your continued support of our nation and its judiciary. On behalf of the Samoan judiciary, I also offer our very best wishes to you all for your work and continued good health.

Xie Xie.

Appendix: The Samoan delegation to the Maritime Silk Road (Quanzhou) International Forum on Judicial Cooperation 26 October 2023, in Quanzhou, People's Republic of China.

a. Please let me introduce to you the other members of Samoa's delegation. If I could first introduce His Honour Justice Clarence Nelson; he is the senior Supreme Court Justice and has a long and distinguished legal career as both a lawyer and jurist. Justice Nelson is Samoa's candidate for a permanent position on the International Criminal Court; we respectfully consider his exemplary leadership and keen intellect, inspired by his Pacific heritage, may be used to bring a new Pacific involvement, and fresh perspectives, to the protection of human rights around the world. The third Judge from Samoa is His Honour Justice Leiatualesa Daryl Clarke. His Honour is an experienced Supreme Court Justice, with an excellent reputation in academia, most recently obtaining his Masters in Law from Auckland University, New Zealand, with first class honours. Our delegation further includes the Registrar of the Supreme Court of Samoa, Mr Papalii John Afele who is on course to graduating with an undergraduate law degree next year; and my wife, Mrs Saveatama Francine Meredith-Perese (who, after enduring me speak endlessly about the law, probably deserves to be awarded an honorary law degree).

b. We are all very honoured to be here, and we thank the Government of the People's Republic of China for this opportunity. Xie xie.

c. We acknowledge His Excellency, Ambassador Zhou of the Embassy of the People's Republic of China in Samoa, for his Embassy's generous support for and funding of our delegation's travel and accommodation. I also acknowledge the support of His Excellency Luamanuvae Mariner, the Samoa Ambassador to the People's Republic of China, and Zhou Lingling, the Director of International Cooperation Department of the Supreme People's Court, for outstanding support given to our delegation.

From the Policy of the Thai President of the Supreme Court to the Safeguard and Improvement of the Justice

Chaiyos Oranonsiri, Presiding Justice of the Supreme Court of the Kingdom of Thailand

Thank you very much. Good morning. I am very glad to be here today. I would like to share with you something about my knowledge and experience concerning the “Maritime Silk Road”. I choose to talk about it through the topic of the role of the Thai Supreme Court in safeguarding and improving justice efficiently since the present President of the Thai Supreme Court has just declares her vision and launches her policy at the very first day of this month. For me, it seems suitable to explain her policy to you under this topic.

For the Judicial court, there are three tiers dealing with the cases, namely, the Courts of First Instance, the Courts of Appeals and the Supreme Court. One of the Court of First Instance for Specialized Cases is the Central Intellectual Property and International Trade Court, or the CIP&ITC in short. The judgements from this Court will be appealed to the Court of Appeals for Specialized Cases and the Supreme Court respectively. From the top of my head, according to the Maritime Silk Road, nowadays there are the Carriage of Goods by Sea Act B.E. 2534 (1991 A.D.), the Multimodal Transport Act B.E. 2548 (2005 A.D.) and the International Carriage of Goods by Road Act B.E. 2556 (2013 A.D.) in Thailand. All of them are regarded as the International Trade laws, therefore, they are under the jurisdiction of the CIP&ITC. But I will not go in depth about these domestic laws. I will talk about how the policy of the President of the Supreme Court or the role of the Supreme Court will give the impact to these laws.

The policy of the President of the Thai Supreme Court has been divided into four parts. They are dependability, fairness, equality and modernization. In fact, all of these have been available in Thai Judicial branch for a long time, but the President of the Supreme Court prefers to concentrate on them seriously in her term. Firstly, the court will act as a dependable place of refuge for people encountering or disputes such as to simplify several measures for the equal access to justice, and to collaborate with both public and private sectors to enhance the efficiency and expediency of case adjudicate and judgement enforcement. Secondly, the court will exercise the judicial power with integrity and fairness such as to adjudicate cases with fairness, transparency and impartiality. Thirdly, the court will render justice with equality and non-discrimination so to ensure equal access to justice for all individuals with uniform standards and procedures. Finally, the court will assume a leading role in the adoption of advance technology and enhancement of knowledge in administration of the court and adjudication of cases so to provide necessary technology in helping the courts services and particularly to support the Justices or the Judges to improve their knowledge and experience from abroad. That is why I can be here today to share my knowledge and experience with all of you. The parties, especially the foreign parties, will be ensured that, by this role of the

Supreme Court, they will receive the safeguard and the improvement to justice efficiently.

To conclude my presentation, I would like to talk about the knowledge I receive here in other dimensions. Inside this room, surely, it is very significant that I can share the knowledge and the experience with all of you. Truly, I will bring this fruitful information back to work it out in my country. I open my mind and receive many useful ideas from different points of views. Therefore, I may choose some of your better measures and give the information to the Judicial Executives in order to mix these measures appropriately into my society. Outside this room, I have a good chance to meet with the lovely Chinese people and this beautiful city, also, how to make a good bargaining in business. The knowledge outside the room sometimes is much more important. It helps me understanding why their laws and judicial systems are, through the people and cultures. Last but not least, I would like to thank for this program. Apart from the invaluable knowledge, this is the good opportunity for me to know all of you who come from several parts of the world. I may one day send you an email to ask your idea about the problem I face in my work. Please keep in touch and the judicial cooperation will be reached sooner or later. Thank you very much.

The Role of the Supreme Court in Safeguarding Justice and Improving Efficiency

Gladys María Gutiérrez Alvarado, President of the Supreme Court of Justice of Bolivarian Republic of Venezuela

Greetings, both personally and on behalf of the judges of the Supreme Court of Justice of the Bolivarian Republic of Venezuela, extended to the esteemed Supreme People's Court of the People's Republic of China. A special acknowledgment goes to its president and all members in attendance at this crucial International Forum.

We extend our gratitude for the warm welcome and institutional reception accorded to the delegation from the Venezuelan Supreme Court. This reception solidifies our shared commitment to cooperation and fraternity, aligning with the foreign policy of our nation led by the Head of State, President Nicolas Maduro. We particularly emphasize the significance of the China-Venezuela Comprehensive Strategic Partnership, aiming to foster continual and progressive benefits in the realms of justice, as well as in legal, geostrategic, scientific, technological, commercial, economic, and social domains. Our collective goal is to cultivate a more balanced, efficient, and effective justice system for both nations.

It is worth reiterating, before this millenary and virtuous Asian people who have contributed significantly to the well-being of humanity under the wise leadership of President Xi Jinping, that the doors of the Venezuelan High Court are equally open to the judicial bodies of the People's Republic of China, its authorities, and all present. We always welcome and appreciate your pleasant visits to our country.

The collaborative endeavor to construct the 21st Century Maritime Silk Road underscores the imperative of elevated international judicial cooperation. This collaboration aims to fortify our justice systems, rendering them more efficient and pertinent in delivering fundamental services to our societies. The ultimate goal is to ensure peace and coexistence on a global scale.

We find it fitting to delve into various aspects concerning the distinct Chambers of the Supreme Court of Justice, with a specific focus on its Constitutional Chamber. Concluding our discourse, we put forth proposals aimed at solidifying synergies with the judiciary of this Asian power. These efforts are geared towards further enhancing Venezuelan judicial administration and fostering the attainment of shared institutional goals in the noble pursuit of justice.

In this esteemed International Forum, we offer a concise overview of the normative framework surrounding the Supreme Court of Justice, positioned as the highest Court of the Republic. We shed light on its endeavors for the human and social development of the Venezuelan people, manifested through the jurisprudence emanating from its various Chambers. The Venezuelan Judiciary, in essence, carries out a multifaceted and engaging judicial function—one that is both specialized and

adaptable, evolving dynamically alongside society and the law. This evolution is intricately entwined with sustained popular participation, all conducted in unwavering adherence to the law.

The Venezuelan Constitution, heralded as an exemplar of new Latin American constitutionalism, embraces the model of a Democratic and Social State of Law and Justice. This framework facilitates judicial activism that has played a pivotal role in revitalizing institutions and shaping a novel legal system to ensure the efficacious operation of a social, participatory, and protagonist democracy. In this paradigm, the rights and guarantees of citizens hold the status of immediately enforceable legal claims, imposing obligatory compliance on all branches of the Public Power.

The principle of progressive protection of human rights and guarantees is enshrined in our Fundamental Text. The State is obligated to ensure, without any form of discrimination, the respect, enjoyment, and irrevocable, indivisible, and interdependent exercise of these rights for all individuals. The international human rights treaties, duly signed and ratified, hold a constitutional hierarchy. Their provisions, in conjunction with constitutional norms and general principles of law, constitute an integral part of the constitutional framework—a guiding set of principles for the interpretation and application of the legal system by all judges and legal interpreters.

In our constitutional model, the Judiciary has transcended its role as a mere resolver of individual conflicts. It has evolved into the paramount national arbiter, safeguarding social peace. Through constitutional jurisdiction, it emerges as an institutional force propelling the development of the political and social program outlined in the Fundamental Text. Since 2000, jurisprudence has demonstrated advancements in the interpretation, promotion, and protection of civil, social, political, and economic rights, among others. The Judiciary, upholding impartiality and independence in its functions, plays a pivotal role in shaping the legal landscape.

It is pertinent to highlight the Constitutional Chamber and its function of protecting the national Constitution, given its power to rule on interpretations of the content or scope of constitutional norms and principles, binding on all the courts of the Republic and the other Chambers of the Supreme Court.

The constitutional jurisdiction has the authority to consider various actions and claims, including cases for constitutional protection, popular actions safeguarding collective and diffuse interests, actions for constitutional interpretation, and reviews of sentences to ensure constitutionality across all courts. Additionally, it possesses the power to assess the performance of public bodies and, when necessary, prompt them to act in a specific direction through the declaration of the unconstitutionality of any omissions. This emphasizes its pivotal role in upholding constitutional principles and guiding the effective functioning of public authorities.

Article 253 of our Constitution asserts that the authority to administer justice originates from the citizens and is executed in the name of the Republic by the authority of the law.

Access to justice is explicitly recognized as a fundamental right in Article 26 of the Constitution. The administration of justice is not merely a state power; it is deemed a public service that operates with transparency, efficiency, and accessibility (Articles 26 and 257 of the Constitution).

Specifically addressing the Supreme Court, Article 267 of the Constitution stipulates that it is entrusted with the direction, governance, and administration of the Judiciary. Additionally, it holds the responsibility for the inspection and supervision of the courts throughout the Republic and the Public Defenders' Offices.

The Constitution has established the Executive Directorate of the Judiciary (Article 267), this administrative body operates within the structure of the Supreme Court of Justice, tasked with providing operational support to ensure the seamless administrative functioning of all courts and judicial offices at the national level.

The Supreme Court of Justice operates through various chambers, including the Plenary Chamber and the Constitutional, Political-Administrative, Electoral, Civil Cassation, Criminal Cassation, and Social Cassation Chambers. The Social Cassation Chamber encompasses those dedicated to agrarian, labor, and children's and adolescents' cassation. Each of these courts fulfills the highest judicial function within its respective jurisdiction, ensuring justice for the entire society. Notably, they contribute significantly to jurisprudence, particularly in sensitive areas such as the protection of children and adolescents and the realm of gender justice, for which specialized courts exist.

The actions of the Constitutional Chamber have played a decisive role in safeguarding national sovereignty, both within and beyond the Republic. This is particularly evident in the face of disproportionate imperial aggression, executed and thwarted coup attempts, and even challenges arising from actions within the institution that could undermine the validity of the national Constitution. The Chamber's significant contribution lies in its role as an arbiter of constitutional justice, ultimately working towards ensuring peace.

At the Venezuelan Supreme Court, we have crafted and implemented the Strategic Plan of the Judiciary. This plan upholds organizational principles of transparency, efficiency, public service, and development, aligning with the overarching values that should guide the various branches of the Venezuelan Judiciary. In harmony with the plan's key pillars, including Jurisdictional Management, Administrative Management of the Judiciary, and the New Judicial Public Servant, we have a comprehensive roadmap that dictates the trajectory and direction of judicial management at all levels throughout the country.

In pursuit of judicial efficiency, our management has outlined the organization of numerous legal assistance events in penitentiary facilities across various regions of the country. These events encompass judicial actions like preliminary hearings, trial commencements, review of measures,

and the provision of humanitarian measures. Additionally, alternative methods for serving sentences, as well as remissions for study and work, are considered—all executed in collaboration with other entities within the Justice System. This underscores our commitment to implementing a strategic plan aimed at alleviating congestion in pre-trial detention centers.

The Venezuelan judiciary has steadfastly pursued a multifaceted approach to bring justice closer to the people, aiming to enhance efficiency in judicial management. This commitment has resulted in several notable achievements, including, but not limited to:

a. Access to justice with works and technology: Several plans and strategies have been implemented to ensure effective access to justice for all inhabitants of the Republic. This includes not only the enhancement of courtroom spaces and working conditions for judicial staff nationwide but also the implementation of various plans for the digitization and systematization of processes. One notable initiative is Ruling No. 1,248 of December 15, 2022, by the Constitutional Chamber. This ruling deemed the progressive use of electronic signatures in writs, proceedings, decisions, and actions within a judicial file viable. This applies to cases in progress before any court in the Republic, involving users of the Public Service of the administration of Justice and officials of the Judiciary. It is, however, contingent upon compliance with the requirements outlined in the applicable regulations.

b. Single Agenda: A computerized tool that links the criminal courts, the Public Prosecutor's Office and the Public Defender's Office through an automated agenda in which the hearings to be held by the criminal courts are set and recorded in order to avoid the deferral of cases due to the absence of one of the parties involved in the criminal process, which contributes to greater efficiency in the administration of justice.

c. Communal Justices of the Peace: These seek to resolve conflicts through various alternative methods to traditional justice, directly in the communities. They contribute to the preservation of harmony in family relations, in neighborhood and communal coexistence, as well as in the resolution of matters arising from the exercise of the right to citizen participation, which translates into a lower number of lawsuits to be heard by the ordinary courts of the Republic.

d. Mobile Courts: Program of buses fitted out as courthouses. A social and strategic symbol of the Supreme Court of Justice, directly engaging with the community through a close inter-institutional and social relationship, with a special emphasis on Communal Councils. This initiative not only grants access to free justice but also provides community legal advice.

e. Municipal Courts: These courts handle procedures for prosecuting less serious offenses, capped at a maximum of 8 years' imprisonment. This approach aligns with the principle of trial in liberty, embracing the new facet of restorative justice. These specialized courts play a crucial role in decongesting the caseload of other ordinary criminal courts and alleviating prison overcrowding. Judges in these courts often opt for sentences involving community work for the benefit of the community, transforming penalties for less serious offenses into tangible instruments or projects that can contribute to the well-being of the community.

f. Houses of Justice: These are comprehensive institutions within the justice system, serving as a harmonious space where the Judiciary, the Public Prosecutor's Office, the Public Defense, and State security officials coexist. Operating as an integrated system, their primary objective is to streamline and expedite all criminal proceedings involving these State entities.

g. "TSJ goes to School": A socio-educational Program that aims to enhance social participation in the justice system, strengthening the peace education of children and adolescents through the provision of information such as the mission, vision, structure and functioning of the Judiciary and conflict resolution in the school environment, through interactive and informative activities.

h. Social Observatory of the Judiciary: This unit is dedicated to advancing processes of observation, oversight, social control, and socio-legal investigation of judicial management. It operates in accordance with the principles of popular participation outlined in the Constitution and the law. The overarching goal is to enhance and strengthen a justice system that is closely aligned with the needs and perspectives of the people it serves.

Despite facing economic challenges that have slowed down the integration of technologies and process technification, these accomplishments have been realized. Since at least 2014, the Bolivarian Republic of Venezuela has contended with unilateral coercive measures (UCM) and other restrictive or punitive actions imposed by authorities of countries pursuing policies contrary to international public law. The objective of these measures is to impede and obstruct the smooth functioning of the Venezuelan economy.

Fortunately, Venezuela has found support and a sense of complementarity from sister countries, including the People's Republic of China, whose cooperation we hope to continue benefiting from. The Venezuelan Judiciary, like never before, is fully prepared to collaborate with the Judiciary of this Nation and other represented Judiciaries. We share common values and principles related to justice and legal security in our respective countries.

We are eager to firsthand witness the progress made by various justice administration systems, particularly China's judicial system. The integration of technologies and telematics, the use of artificial intelligence for verdict issuance, and the systematization and digitization for procedural expediency and judicial efficiency are areas in which the host country undeniably excels, establishing itself as a leader and a source from which we can draw inspiration.

We are confident that we will be able to work together, thanks to the exceptional experience of the Chinese judiciary, on a plan to update, modernize, and strengthen the technology of the Venezuelan judiciary. This initiative aims to propel progress in the utilization of electronic media in trials, harnessing the substantial advantages that come with it.

As we conveyed recently to the Ambassador of the People's Republic of China in Venezuela, Mr. Lan Hu, this nation serves as a benchmark in the administration of justice, international trade, judicial cooperation, legal security, and numerous other domains. It stands as a pivotal ally of the Bolivarian Republic of Venezuela. In essence, China is a fundamental guide for ethics, philosophy,

spirituality, law, and international justice, for study, work, invention, trade, the digital economy, the well-being of peoples, and, ultimately, for the very existence of the planet.

We say goodbye reiterating the shared motto and purpose that should bind judicial administrations: the commitment to ensuring justice in the world.

Thank you very much.

