

REPUBLIC OF NAURU
NAURU COURT OF APPEAL BILL 2018
SECOND READING SPEECH
Honourable Baron Divavesi Waqa, M.P.
10 May 2018

Mr. Speaker Sir,

I have the responsibility of introducing to the House today a Bill to establish the Nauru Court of Appeal and for related purposes.

Mr Speaker, concerns were expressed about the seemingly abrupt ending of the right of appeal to the High Court of Australia. The termination of appeals to the High Court of Australia is the change which will make the courts more accessible.

Mr Speaker, one of the key reasons for having a domestic Court of Appeal is to ensure the accessibility of justice to the citizens of Nauru which is the role of any responsible Government. The appeals to the High Court of Australia were only for limited matters. No appeals could be filed in some critical areas:

- involving the interpretation or effect of the Constitution of Nauru;
- involving the right of a person to be, or to remain, a member of the Parliament of Nauru;
- in respect of a judgment, decree or order given or made by consent; and
- in respect of appeals from the Nauru Lands Committee.

Since the Court of Appeal will be based in Nauru, the Government will ensure the costs of appeals is kept to a minimum to allow the majority of the litigants to exercise their right of Appeal. Constitutional and land matters are a substantial portion of the cases filed in the Supreme Court for which there is no right to appeal.

The Nauru Court of Appeal will be the highest court within the hierarchy of courts in the Republic and will be the final appellate court. Its decisions will not be subject to further review by any other court. The Court will have its own Justices of Appeal with a minimum sitting panel of 3 Justices. The Government is committed to ensuring that justice is not only done but is seen to be done. A strong and impartial judiciary is a cornerstone of any society and its economic development and this Government is moving towards it.

Mr Speaker, I wish to stress that the establishment of the Nauru Court of Appeal is all about the rights of the Nauruan people. Our rights are protected by access to justice, which means access to our courts. The vast majority of our people

have been denied the right to appeal their cases because our final appellate court is an institution that is in Australia.

For the vast majority of Nauruans, if they lose their appeal in the Nauruan Supreme Court that is the end of their way out to the law for the protection of their rights, even though there may be a right to a further appeal in Australia. The Australian High Court was undoubtedly inaccessible to the majority of our people.

Mr Speaker, this is undoubtedly a significant Bill for Nauruans. This Bill will give all Nauruans for the first time, the opportunity to have their cases heard at the highest level. That has been denied to many Nauruans up to this point. The Bill will also enable the legislation passed in this House to be interpreted at the highest judicial level by a Nauruan court. No longer will the final Court of Appeal be available to a privileged few. At long last Nauru will be in control of its own legal destiny.

Mr Speaker, before concluding, let it be made absolutely clear that the establishment of the proposed Court of Appeal has nothing to do with the riot case pending in court which ought to have finished a long time ago. It is a matter for the independent Nauruan Judiciary to deal with and not the Government.

The Bill is accompanied by an explanatory memorandum explaining the Bill in more detail.

Mr. Speaker, I commend the Bill to the House.