Pacific Islands Law Officers’ Network (PILON) Secretariat

Report on PILON Secretariat activities in 2010

The PILON Secretariat is pleased to welcome delegates to the 29th PILON Meeting (29th Meeting) being hosted by the Australian Attorney-General’s Department from 8-10 December 2010 in Brisbane, Australia. The theme ‘Regional Approaches to Combating Crime’ and program for the meeting will enable delegates to consider emerging crime issues, capacity and legal challenges in the region, and discuss matters such as improved regional coordination of legal resources, enhancing legal frameworks and building law enforcement and prosecution.

The Secretariat has undertaken a range of activities since the 28th PILON Meeting (28th Meeting) held in Samoa in December 2009. One of the main activities has been the ongoing transition to an independent Secretariat located in Apia, Samoa. We will provide you with an update on that project later on in this report. At the 28th Meeting, the Secretariat was given the responsibility of advancing a number of work items and projects. In addition, members agreed to take action in certain areas, including legislative reform where appropriate. We take this opportunity to update members on those activities.

**Transnational organised crime, terrorism and corruption**

At the 28th Meeting, the United Nations Office on Drugs and Crime (UNODC) informed member countries of activities it is undertaking aimed at strengthening legal mechanisms against transnational organised crime and terrorism in the Pacific Region. UNODC also encouraged member countries to utilise the technical assistance available from UNODC to ratify relevant United Nations Conventions and Protocols, draft implementing legislation and train criminal justice and judicial officers. In considering future issues and the direction of PILON, member countries noted that it was desirable to consider international instruments which might promote stronger action against transnational crime, terrorism and corruption in the region and how PILON may assist.
The theme of this year’s meeting ‘Regional Approaches to Combating Crime’ was identified as a common theme and challenge for member countries from Country Reports. The 29th Meeting is a timely opportunity to consider in detail emerging issues in the Pacific concerning transnational and organised crime and corruption.

One aim of this year’s meeting is for PILON members to agree on a set of outcomes designed to meet the challenges posed by these emerging crime issues.

**Report on the 2010 Work Plan**

1. **Extradition**

A paper on the topic of extradition was presented at the 27th Meeting. Members agreed at that meeting to encourage their governments to consider ways in which the extradition process between their countries could be streamlined to:

- further harmonise evidential requirements to extradite a person, noting that most members prefer a move to a backing of warrants scheme or the no evidence standard;
- harmonise grounds of objection to extradition applications, and
- explore options to reduce or share the burden of the financial and administrative costs of extradition.

The PILON Secretariat was tasked at the 29th Meeting to work with members to prepare an update on how PILON member countries have made efforts to harmonise evidential requirements for extradition. This update has been prepared and included in the meeting papers.

The PILON Secretariat acknowledges the steps taken by Australia, Solomon Islands and Nauru to harmonise evidential requirements and streamline procedures for extradition. We encourage all member countries to consider what else they can do in this regard, and propose that members renew their commitment to review and improve legal frameworks for international extradition.

2. **Secondment and exchange opportunities**

The Secretariat maintains a record of secondment and exchange opportunities offered by members and observers, and has previously made this record available to members. The Secretariat requests that members and observers keep it informed of initiatives of this variety, to ensure that notice of these opportunities can be circulated to members in a timely fashion.

*Legal policy and legislative drafting twinning programs*

At the 28th Meeting, Australia’s Attorney-General’s Department advised that it had recently established a legal policy twinning program as part of its ongoing commitment to address issues of legal capacity in the region. The program provides an opportunity for legal officers from Pacific island countries to undertake a three month placement in legal policy areas of the Australian Attorney-General’s Department. The program aims to build participants’ capacity to
develop legal policy through the development and reform of legislation and complements Australia’s existing twinning programs in areas of legislative drafting, prosecutions and law libraries.

In May 2010, the Secretary of the Attorney-General’s Department, Mr Roger Wilkins AO, wrote to PILON members seeking nominations for the inaugural Pacific Legal Policy Twinning Program and the longer standing Pacific Legislative Drafting Pairing Program, which are administered by the Pacific Section and the Office of Legislative Drafting and Publishing respectively.

The successful candidates for the Pacific Legal Policy Twinning Program were Ms Barina Waqa from the Nauru Ministry of Justice and Border Control and Ms Katalaini Ziru from the Solomon Islands Ministry of Justice and Legal Affairs. The successful candidate for the Legal Drafting Pairing Program was Ms Loretta Teueli from the Office of the Attorney General in Samoa. Ms Waqa was placed in the Criminal Law Policy Section of the Criminal Law and Law Enforcement Branch and Ms Ziru was placed in the Justice Policy and Projects Section of the Justice Improvement Branch of the Department. Ms Teueli was placed in the Office of Legislative Drafting and Publishing. Each of the participants commenced their three month placements in September 2010.

Ms Waqa and Ms Ziru will both attend the 29th PILON Meeting, and Ms Waqa will present to the meeting on her experience as a participant in the Pacific Legal Policy Twinning Program.

The Attorney-General’s Department will be seeking expressions of interest for the next round of placements under the Legal Policy Twinning Program and the Pacific Legislative Drafting Pairing Program in early 2011.

3. PILON Litigation Skills Programme

At the 28th Meeting, New Zealand Crown Law suggested that the PILON Secretariat attend the next Litigation Skills Programme (LSP) in order to understand the program and discuss future collaboration with LSP. This did not prove possible this year due to scheduling issues, however, the PILON Secretariat will continue to liaise closely with the organisers of the LSP and explore collaboration opportunities.

The LSP is this year being held from 2-9 December at The University of the South Pacific (USP), Emalus Campus, Port Vila, Vanuatu. It will provide advocacy and litigation skills training for a total of 40 participants coming from the Cook Islands, Federated States of Micronesia, Kiribati, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. PILON continues to support the LSP and its objectives and looks forward to New Zealand Crown Law reporting to the 2011 PILON Meeting on the outcomes of this year’s LSP.

4. Australia’s Law and Justice Framework for the Pacific

At the 28th Meeting, PILON members agreed to examine the details of Australia’s proposed Law and Justice Framework for the Pacific, and to offer views on its strategic direction. Following that meeting, the Australian Attorney-General’s Department contacted various agencies in Pacific island countries to obtain their comments on the Framework. A number of comments were received and the
Australian Attorney-General’s Department wishes to convey its thanks to those members who contributed. Australia’s Law and Justice Framework for the Pacific was launched by the Australia Attorney-General, the Hon. Robert McClelland MP, in Canberra, Australia, on 15 June 2010. Numerous representatives from PILON member countries were present at the event. A copy of the Framework can be found at <www.ag.gov.au>. The Framework will be discussed in more detail on Day 2 of the 29th Meeting.

5. **Climate change**

Members tasked the PILON Secretariat at the 28th Meeting to work with relevant partners to develop a discussion paper for the 29th Meeting focused on the legal implications of climate change; particularly key legal areas where a regional approach to both mitigation and adaptation would be worthwhile to members.

In accordance with the outcome on this issue at the 28th Meeting, the Secretariat arranged for the Secretariat of the South Pacific Regional Environment Programme (SPREP) to prepare a paper on the legal implications of climate change in the Pacific. This paper is included in the meeting papers. SPREP’s representative at the 29th PILON meeting, Mr Clark Peteru, will also be presenting on Day 2 of the 29th Meeting.

The PILON Secretariat will continue to liaise with key stakeholders in the area of climate change.

6. **Update on legislative efforts to combat gender based violence**

The PILON Secretariat was tasked at the 28th Meeting with working with the Pacific Regional Rights Resource Team (RRRT) and other relevant members and observers to provide an update on PILON member countries’ adoption of legislative measures to tackle gender based violence. The RRRT will provide this update at the 29th Meeting. The New Zealand Crown Law Office will also present at this year’s meeting on legislative and case law developments in New Zealand relating to gender based violence, and the Pacific Prevention of Domestic Violence Programme (PPDVP) has prepared a paper which sets out briefly the recent activities of Pacific Police Services to address violence against women.

At the 28th Meeting, member countries agreed to review their respective domestic legislation relating to gender based violence and consider ways to enhance a regional commitment to eradicate sexual and gender based violence, particularly through strengthened legislative responses. The PILON Secretariat would welcome further updates from member countries on progress which has been made in this regard.

7. **Fisheries and environmental crime**

At the 28th Meeting, members tasked the PILON Secretariat to liaise with the Pacific Islands Forum Fisheries Agency on matters concerning illegal, unreported and unregulated fishing. In July 2010, Australia hosted a regional meeting of Pacific Law Enforcement and Fisheries Ministers which considered options for concluding an agreement on measures to combat illegal, unreported and unregulated (IUU) fishing.
At that meeting, Ministers endorsed the negotiation of a Niue Treaty Subsidiary Agreement as the most practical legal framework for improving fisheries protection in the region. This decision was subsequently endorsed at the 2010 Pacific Islands Forum Leaders’ Meeting which was held in Port Vila in August 2010. The Secretariat has arranged for the Pacific Islands Forum Fisheries Agency and the Australian Attorney-General’s Department to provide an update at the 29th Meeting concerning developments related to negotiation of the Niue Treaty Subsidiary Agreement.

Also in 2010, the PILON Secretariat attended an international conference hosted by the Australian Government and the University of Wollongong entitled ‘Following the Proceeds of Environmental Crime: Fish, Forests and Filthy Lucre’. The conference was attended by many participants from Pacific island countries and a range of issues were discussed, including environmental crime, corruption and money laundering, and the links between these offences.

The Secretariat has invited experts in dealing with environmental corruption and money laundering from the Australian Attorney-General’s Department to write a paper on environmental crime and corruption for the 29th Meeting. This paper discusses options for strengthening legal frameworks in the Pacific to better address environmental crime, particularly illegal fishing, and has been included in the meeting papers. Professor Lorraine Elliott of the Australian National University has also been invited to present at the 29th Meeting on the issue of environmental crime and corruption in the Pacific.

In addition, at the 28th Meeting, PILON member countries with an interest in reviewing their domestic maritime legislation and regulations were encouraged to seek assistance from the Secretariat of the Pacific Community (SPC) to develop maritime/shipping policies. In relation to this initiative, the PILON Secretariat is willing to act as liaison between member countries and SPC if necessary.

8. **Hague Conventions**

At the 28th Meeting, New Zealand’s Ministry of Justice presented on the Hague Family Conventions. One initiative arising from that presentation was PILON members interested in becoming a party to one or more Hague Family Conventions were encouraged to advise the PILON Secretariat if they required assistance to do so, and the nature of the assistance required.

The Secretariat received one expression of interest from a member country this year, and acted as liaison between that country and the New Zealand Ministry of Justice. If there are other countries interested in this initiative, they should contact the Secretariat who can facilitate contact with the Ministry of Justice.

9. **Montreux Document**

The International Committee of the Red Cross (ICRC) presented on the Montreux Document on Private Military and Security Companies at the 28th Meeting. ICRC has provided an update for the 29th Meeting which can be found in the meeting papers.
The ICRC will continue to keep the PILON Secretariat informed about the commentary to the Montreux Document and the possibility of a regional workshop on private security companies (PSC) and the Montreux Document. PILON members are also encouraged to undertake a review of their existing legislation to see if they have adequate provisions in domestic law to regulate PSC in accordance with their existing international legal obligations and the good practices under the Montreux Document. The ICRC is available to assist States in undertaking this process.

10. Pacific Islands Legislative Drafters Forum

At the 28th Meeting, member countries supported the recommendation of the Pacific International Maritime Law Association to establish a Pacific Islands Legislative Drafters Forum. The Pacific Islands Forum Secretariat has been working in conjunction with Vanuatu to progress this initiative and will be providing an update to delegates on Day 3 of the 29th Meeting.

11. Human rights

PILON members were encouraged at the 28th Meeting to consider their own legislative frameworks for compliance with international human rights instruments. PILON members also agreed that the PILON Secretariat would coordinate a discussion paper, drawing upon previous work, on the implications of a regional human rights instrument, to be presented at the 29th PILON meeting.

The PILON Secretariat prepared the discussion paper in close consultation with the Pacific Islands Forum Secretariat, which is involved in much of the work already underway on measures to improve the protection and promotion of human rights in the region.

The paper discusses the implications of a regional human rights charter for the Pacific, and describes a range of other activities and initiatives that are currently underway to increase the protection and promotion of human rights in the Pacific region. The paper recommends that PILON members note the various implications raised by a regional human rights charter, and note the Secretariat’s view that consensus on key human rights principles and obligations is required before an effective regional human rights instrument can be negotiated and implemented.

The discussion paper has been distributed to PILON members in the papers for the 29th Meeting, for consideration out of session. Members are encouraged to send their comments on the discussion paper to the PILON Secretariat.

12. Pacific Islands Legal Information Institute (PacLII)

At the 28th Meeting, members tasked the Secretariat to coordinate nominations for a PILON member country representative on the PacLII Advisory Board. Mr Titabu Tabane, Attorney-General, Kiribati, was nominated and appointed as the PILON representative. Mr Tabane attended the PacLII Advisory Board meeting held on 19 July 2010. The Advisory Board discussed a range of issues related to PacLII, and preparations were made for a workshop to be held later in 2010.
From 1-2 October 2010, PacLII hosted a regional workshop at the USP School of Law, Emalus Campus, Port Vila, Vanuatu. The workshop was entitled ‘The Future of Online Legal Publishing in the Pacific Islands’ and was attended by representatives from numerous Pacific Island countries as well as others with an involvement and/or interest in PILON. At the conclusion of the workshop, those in attendance made a Declaration urgently calling for positive action from donors to support PacLII into the future. The PILON Secretariat has asked Ms Lenore Hamilton, Director of PacLII, to provide a report on Day 3 of the 29th Meeting.

13. **Legal Preparedness for international disaster**

At the 28th Meeting, the International Federation of Red Cross and Red Crescent Societies (IFRC) presented on its Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance. The guidelines provide recommendations for governments on how to prepare disaster plans for the common regulatory problems in international disaster relief operations. PILON member countries are encouraged to contact the IFRC if their governments are interested in reviewing their existing frameworks, discussing gaps in their legislation, and identifying potential priorities in disaster relief legislation.

14. **Country reports**

The Secretariat was asked to assess country reports from the 28th Meeting to identify common themes and challenges for discussion at the 29th Meeting. As mentioned above, the 29th Meeting has been given a specific theme ‘Regional Approaches to Combating Crime’ and will include presentations and panel discussions on improving regional coordination of legal resources, enhancing legal frameworks and building law enforcement and prosecution capacity.

The Secretariat also produced a template country report for use by members this year. The template was developed by drawing from common characteristics of country reports from previous years. This template will hopefully assist member countries in presenting this information to PILON.

### Representation of PILON at Regional Meetings

During the course of 2010, PILON was represented at a number of regional meetings and workshops. A description of some of those meetings and workshops is given below. The Secretariat is able to provide additional details regarding these meetings and workshops on request. The Secretariat also coordinated the attendance of delegates from PILON member countries at many of the meetings mentioned below. This included obtaining funding for travel costs of delegates where necessary.

1. **Forum Regional Security Committee (FRSC)**

The PILON Secretariat was represented at the FRSC by Ms Ashleigh Saint, Director, Pacific Section, Australian Attorney-General’s Department. Ms Saint provided an
update on PILON activities at the meeting, and also outlined the process for the transition to an independent PILON Secretariat.

Ms Saint identified areas of common interest to the FRSC and PILON, including international crime cooperation, criminal deportees, arms trafficking, climate change, human rights and efforts to eradicate gender based violence. With regard to international crime cooperation, Ms Saint noted the importance of extradition, mutual legal assistance and information sharing in efforts to counter and respond to criminal activity. The FRSC’s position that implementation of the Honiara and Nasonini Declarations should continue to be a legislative drafting priority for the Pacific is one supported by PILON, and in this context Ms Saint noted that it was at the FRSC meeting in June 2007 that the issue of regional extradition and mutual assistance arrangements was referred to PILON for consideration. Ms Saint reported that a paper on the extradition arrangements in the region was prepared and discussed at the 27th Annual PILON Meeting held in Vanuatu in 2008, and PILON members agreed to consider ways to harmonise extradition legislation in the Pacific through regionally consistent standards. Ms Saint noted the recent efforts by Solomon Islands in reforming its extradition law.

Ms Saint also noted with appreciation that PILON welcomes the invitation to contribute to the Pacific Transnational Crime Assessment report in 2011, which will be the first time that PILON has been invited to contribute.

Presentations were made to the FRSC about options for a Regional Human Rights Mechanism for the Pacific. Ms Saint noted that PILON looks forward to hearing further on this proposal as research and work continues, and noted that, at the December 2009 PILON Meeting, members tasked the PILON Secretariat to prepare a discussion paper identifying options and outlining the implications of a Regional Human Rights Instrument.

Ms Saint noted PILON’s contributions to the Pacific Islands Forum Working Group on Strengthening Information Management, and advised that the PILON Secretariat will continue to coordinate with PILON Members to provide information and otherwise contribute to the Working Group as required.

2. Pacific Islands Chiefs of Police (PICP) Conference

The PILON Secretariat was represented at the PICP Conference by the Solicitor-General of the Cook Islands, Mr Tingika Elikana. Mr Elikana gave a presentation to the PICP Conference on PILON, and also outlined the transition process to an independent PILON Secretariat. Mr Elikana expressed PILON’s ongoing commitment to forging close links with the PICP and working together on shared issues of importance. A representative from the PICP was also invited to attend PILON’s 29th Meeting.

3. USP School of Law Programme Advisory Committee

PILON has a key interest in the USP School of Law Programme, as USP is one of the only universities offering undergraduate law training in the Pacific Islands, outside of Australia and New Zealand. During 2010, the PILON Secretariat requested
nominations from member countries to participate on the USP School of Law Programme Advisory Committee. Mr Titabu Tabane, Attorney-General, Kiribati, attended the Advisory Committee meeting held on 7 June 2010 as representative of PILON. The various programs offered by the USP School of Law, including professional diploma and master programs, were discussed at the meeting.

The Advisory Committee was also informed that the School of Law would be the subject of an external review (all USP Schools are now subject to external review) focusing on the following areas:

- learning & teaching
- research
- regionalisation
- the relevance and sustainability of its programs
- teaching Policy, and
- English language skills – both at admission and at graduation.

The Secretariat understands that the external review is scheduled to take place during the course of 2011. The Advisory Committee also discussed the work being done by the Pacific Islands Legal Information Institute (PacLII) and the Community Legal Centre (CLC) in the region.

4. Pacific Prosecutors’ Association

The PILON Secretariat attended the Pacific Prosecutors’ Conference (PPC) held in Samoa from 31 May-2 June 2010. The PPC is the annual meeting of the Pacific Prosecutors’ Association and provides prosecutors from around the Pacific with a forum to meet and discuss working-level issues of specific relevance to the Pacific. The Secretariat was also co-host of the PPC this year due to its role in arranging AusAID funding for some Pacific island participants to attend.

Heads of prosecution agencies and senior prosecutors attended the PPC from jurisdictions including New South Wales, New Zealand, Cook Islands, Jamaica (attending in an observer role as the Caribbean may establish an organisation similar to the PPA), Federated States of Micronesia, Palau, Tuvalu, Fiji, Papua New Guinea, Solomon Islands, Vanuatu, Samoa, Kiribati, Tonga, and Nauru.

The Secretariat was involved in a number of panel discussions which focused on capacity constraints facing prosecution agencies and the need for technical and other assistance in the Pacific. The Secretariat was also able to announce to participants that Australia had nominated to host the 29th PILON Meeting in December 2010.

One key outcome of the PPC was a resolution that the PILON Secretariat should be invited to temporarily host the PPA Secretariat. This resolution was proposed by the PPA Executive Committee and was passed by PPA members. At the end of the PPC, the PILON Secretariat met with some members of the Executive Committee of the PPA to discuss the resolution and some of the practical issues involved with it being implemented. This meeting also provided an opportunity to discuss with members of the PPA Executive Committee a number of initiatives which the PPA would like to pursue in the next 12 months and the level of assistance which may be sought from the PILON Secretariat. We expect some of these matters to be covered in the
presentation which the PPA Executive Committee is giving on Day 3 of the 29th Meeting.

5. **Working Group for Strengthening Information Management**

The Secretariat continues to represent PILON as part of the Working Group for Strengthening Information Management which was formed under the auspices of the Pacific Islands Forum. The Secretariat has provided the Working Group with information regarding relevant activities undertaken by PILON, provided input on the draft Terms of Reference for the Working Group, and identified law enforcement information sharing issues for consideration by the Working Group.

PILON Secretariat transition to Samoa

At the 28th Meeting, members were advised that Australia had obtained funding for an independent Secretariat to be established in the Pacific islands. The funding of A$400,000 over 3 years is to provide for the salary of a Secretariat Coordinator and costs such as office accommodation and equipment. Members agreed at the 28th Meeting that the Secretariat should initially be based in Samoa.

The Secretariat advertised the position of Secretariat Coordinator in July 2010 in various media and through national and regional organisations in the Pacific. Applicants were asked to respond to set criteria and submit a full curriculum vitae detailing their educational and work qualifications. The response was encouraging with a number of high quality applications being received.

The PILON Secretariat wrote to members requesting nominations to sit on a Selection Committee for the Secretariat Coordinator position. As a result, a Selection Committee was formed comprising the following members:

- Mr Ming Leung Wai, Attorney General, Samoa
- Mr ‘Aminiasi Kefu, Solicitor General, Tonga
- Mr Tingika Elikana, Solicitor-General, Cook Islands, and
- Mr Steven Marshall, Assistant Secretary, Australia.

The Selection Committee short-listed five candidates for interview, and interviews were held on 7 September 2010. Ms Tracey White was subsequently offered the position of PILON Secretariat Coordinator and is expected to commence in that role in Samoa in early 2011. Ms White is a lawyer with previous experience working in the Pacific. There is also a good prospect that a volunteer under the Australian Youth Ambassadors for Development Program will join the Secretariat in mid-2011 to assist the Coordinator and progress the Work Plan, among other things.

Preliminary work has been done in identifying suitable office accommodation in Apia, Samoa in which to locate the PILON Secretariat. It is expected that the PILON Secretariat will be fully functioning in Apia by the end of the first quarter of 2011. The incoming Secretariat Coordinator will also be able to call on the Australian
Attorney-General’s Department and Samoan Office of the Attorney General for support during the transition to a permanent Secretariat.

At the 28th Meeting, member countries noted the importance of sustainable financing for the PILON Secretariat and tasked the Secretariat with preparing a discussion paper on this topic. The Secretariat has prepared a paper which addresses this topic and which considers issues regarding the structure of the Secretariat. This paper draws on the work done from 2005-2007 when the last comprehensive review of the structure of PILON (then known as PILOM) was undertaken. The recommendations contained in that paper will be discussed on Day 3 of the 29th Meeting.

Special thanks

The PILON Secretariat would like to thank the PILON Executive Committee for their support and input during the past year. Thank you in particular to the outgoing Chair, Mr Ming Leung Wai, Attorney General of Samoa, for his wise counsel and great support and encouragement of the Secretariat and the activities of PILON.

The Secretariat would also like to thank NZAID and AusAID for enabling those delegates who required funding assistance to attend this year’s meeting in Brisbane. We would also like to thank the International Committee of the Red Cross for hosting the casual welcome drinks function on the Tuesday night before the 29th Meeting. The support of donors continues to be greatly appreciated by PILON.

Thank you also to the Australian Attorney-General’s Department and its staff for organising and hosting the 29th Meeting. The Secretariat appreciates the time and effort you have put into this meeting and recognises the crucial role played by host countries in organising these meetings each year.