

MENDING THE NETS

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Background

For the past decade the Pacific region has experienced flashes of political and social instability which continue in varying forms to the present day.

The assault on small island developing states by the international communities and multilateral organizations continues in every sphere of government activity as we are individually and collectively bombarded by often reasonable demands to:

- ❖ care for our environment;
but also
- ❖ exploit our environment for tourism;
yet also
- ❖ catch our fish;
- ❖ control natural resources;
yet
- ❖ sell off natural resources;
- ❖ protect against dirty money;
yet
- ❖ accept foreign investment;
but
- ❖ reduce over regulation;
- ❖ accept more trade;
but
- ❖ not be overwhelmed by free trade.

In the midst of all these demands lies the essence of governance in the Pacific:

- √ keeping Pacific peoples safe, secure and independent.

PILOM Revisited

PILOM has, for many years, provided an invaluable 'safety valve' for law officers facing often extraordinary challenges to the rule of law and political and social stability.

PILOM in its 25th year provides a forum for candid and honest exchanges between officials in the front line without fear of reprisal or unauthorised publication of their views and work. The relationship between the region's law officers, in my opinion, is not currently sustained beyond the annual PILOM meeting and it has been a rare occasion in my last eight years tenure as Attorney-General that communication between the law offices has occurred in between times notwithstanding the consistent sense of 'deja vu' which occurs when the Pacific Island Countries members in particular present their country reports.

By illustration, the common and recurrent themes which are discussed perennially include: the disputes and tensions over the use (or abuse) of customary land which manifest themselves in either criminal cases or complex constitutional cases each year; the jockeying for political power is translated into challenges to electoral legislation and constitutional offices, not only in election year but every year; the tension concerning the exploitation of national resources whether natural, technological or cultural which plays out each year with court action against Government or state Corporations or finally the squandering of national resources to a developed country consortium; the list goes on.

At the core of all these and many other issues, stand the practical limitations of small islands states in the region to cope with:

- free trade;
- money laundering;
- anti terrorism;
- information technology;
- environmental restrictions;
- international conventions;
- bio-security;
- quarantine;
- HIV/AIDS;
- Economic development;
- Fiscal control;
- Tourism;

- Transnational crime;
- Poverty;
- Natural disasters.

ALL at the same time,
BY the same people.

More and more small island states are required to 'take their best shot' and prioritise the areas which they are able to deal with in a reasonable manner and leave the baying of 'timetables' and 'reporting' obligations to be lost in the bowels of their respective Foreign Affairs Ministries.

Training Available

Since my appointment as Attorney-General in 1998, my Office and Government law enforcement agencies have received some training opportunities through the Forum Secretariat and donor agencies. Whilst training (speaking in general terms) has been made available to Government agencies regionally, these in my view do not necessarily result in the best outcome as well as most effective use of scarce financial resources. This in my view can be attributable to a variety of factors including:

- (a) training fatigue - Government agencies are provided extensive training opportunities and these do not necessarily fit with the key priority areas;
- (b) training programs often do not address a priority area given the broad needs sought to be met of all participants;
- (c) personnel allocated to training programs are not necessarily the preferred or most appropriate candidate for the training but attend because of "their turn" or they are the ones available at that time; and
- (d) training gains learnt are not translated into the workplace.

As a result of these problems, there may be wastage in resources both by donor and the recipient agencies. Having said this, there is of course many circumstances where training delivered regionally through one location is warranted.

Law Enforcement

At present Forum Finance Ministers meet, Forum Education Ministers meet and Forum Trade Ministers meet yet there appears to be a historic reluctance in the region to formalise the need for Forum Law Ministers to meet regularly and constructively to support peace and stability within the region.

PILOM as one of its many roles addresses the national security issues facing individual countries but the existence of declarations such as Biketawa and Nasonini suggest that the Forum 'en famille' acknowledge the importance of 'law and order' issues. Whilst the South Pacific Chiefs of Police continue to discuss issues of importance to their particular area of influence, and PILOM considers its own issues, there is no form of regional coordination of

the two meetings, and thus the pressure points which are raised in the annual meetings are lost once aired and in doing so a valuable opportunity to seek or provide some early intervention on festering law related issues in the region is also lost.

The Law Officers of the region are often the 'last bastion' when it comes to possible illegal action by Governments. This note has not been well supported by the donor community and has been underestimated in its practical impact upon supporting and ensuring good governance.

Proposal

Given the very real strategic benefits of maintaining the rule of law and dealing efficiently and effectively with threats to stability and peace in the region, I would propose that a possible answer to the lack of coordination and free exchange on law related matters in the region be addressed through positive action by the Forum Secretariat and that a review be undertaken of the existing regional approach to law and order and the role of Law Officers in the region in contributing to the priority areas identified for the region.

I would envisage that the Forum Secretariat be invited to undertake the review with the assistance of two or three law officers from the region and a representative from the South Pacific Police Chiefs to:

- (1) Determine the current state of regional cooperation and exchange in the area of law and orders: good governance; legal resources; legislative reform and drafting; mutual cooperation and law enforcement issues.
- (2) Assess the roles of PILOM and South Pacific Chiefs of Police and whether the matters raised during their annual meetings are communicated in any way to the Forum Secretariat or the Forum meeting of Leaders and whether these bodies encourage and facilitate regional exchange and communication.
- (3) Propose a formal means of communicating the broader issues raised by law officers into some further consideration by the Secretariat and possibly the creation of an early alert process to encourage the early consideration of regional security issues.
- (4) Recommend the options available to the Forum Secretariat and its member countries to improve communication and the availability of mutual assistance and support for law officers.

The intended outcomes of those recommendations are better communication and regular exchanges between, in particular, the Pacific Island States where:

- √ regional experience and knowledge is valuable;
- √ cultural solutions to seemingly insurmountable national problems may have wide application if only they were known....
- √ law and order are concepts which are specifically reinforcement underscored in the region through practical;

- √ developments such as the establishment of Transnational Crime Units and the regional coordination of such are more widely considered, known and used;
- √ existing networks are used more expansively and more effectively.

Conclusion

In conclusion, each member of PILOM has a unique contribution to make to the work and responsibilities of every other PILOM member, given the common threads and experiences which bind us together.

Too often, countries 'reinvent the wheel' over and over again rather than benefiting from the same work having been completed in a neighbouring island state. It is time that all these benefits were available to PILOM members collectively and individually, and time also that PILOM extends its reach beyond our very constructive annual meetings to a year round contribution to law and order in the region.

SOIFUA