Welcome

Welcome readers to the second issue of Talanoa for 2015!

Content ideas, articles, suggestions and feedback are always welcomed by the Secretariat, and we encourage you to sign up to our mailing list so you never miss an issue and are kept up to date with what’s been happening in the region.

We are grateful to PILON Observer Members – the Commonwealth Secretariat, the ICRC, SPC/DSM Project and the UNODC; PILON members – Kiribati, Nauru, Samoa, and Solomon Islands as well as the Australian Attorney General’s Department for their contributions to this issue. If you would also like to contribute to the discussion please do feel free to contact us.

PILON SGBV Working Group Meeting, Suva, Fiji 8th – 11th June

The PILON Sexual and Gender Based Violence (SGBV) Working Group with assistance from the Attorney-General’s Department of Australia recently held a meeting in Suva, Fiji from 8th – 11th June at the PIFS Secretariat Conference Centre. The working group meeting was chaired by Mr ‘Aminiasi Kefu (Acting Attorney General and Director of Public Prosecutions of Tonga) and follows last year’s successful and productive working group meeting on the implementation of SGBV laws across the Pacific.

The key objective of the 2015 meeting was the discussion and exploration of different ways to monitor and evaluate the effectiveness of SGBV legislation in the Pacific. PILON development partners and observer members having expertise in the field of SGBV gave insightful presentations which lead to lively discussions amongst the participants.

SGBV WG meeting participants presenting their M & E plans.
Participants shared information and insights on how SGBV legislation was being implemented in their individual countries. Participants were provided training by Monitoring & Evaluation expert Anne Markiewicz, from Pacific Women on how to evaluate their SGBV legislation and were provided with templates to develop monitoring and evaluation plans. The meeting also provided further opportunities for relationship building between prosecutors, legal officers and police – a fundamental aspect to effective implementation of SGBV laws.

In consultation with meeting participants, the outcomes of the meeting will subsequently be developed into template program designs and monitoring and evaluation frameworks covering the issuing and enforcement of protection orders and conviction for SGBV offences. These designs and frameworks will then be presented by the SGBV Working Group Chair to the 2015 PILON meeting, with the hope that templates will then be adopted for domestic use by PILON members.

Since the Samoa Audit Office has the expertise of forensic accountants to investigate complex fraudulent cases whilst the Attorney General’s Office has the prosecutorial expertise, working together to handle fraudulent cases made sense. It is hoped that this partnership will lead to more efficient and effective prosecution of complicated matters requiring the expertise of forensic accountants of which the Samoa Audit Office will endeavour to further develop its capacity in.

STOP THE PRESS!! What’s happening in the Region:

*MOU between SOAG and Audit office*

The Samoan Office of the Attorney General (SOAG) and the Samoan Audit Office (AO) entered into a memorandum of understanding on 15 May 2015 principally to work together for the efficient and effective prosecution of fraudulent activities and corruption. Expertise in the handling of complicated fraudulent activities and corruption is necessary for the effective prosecution of such alleged offending.

Since the Samoa Audit Office has the expertise of forensic accountants to investigate complex fraudulent cases whilst the Attorney General’s Office has the prosecutorial expertise, working together to handle fraudulent cases made sense. It is hoped that this partnership will lead to more efficient and effective prosecution of complicated matters requiring the expertise of forensic accountants of which the Samoa Audit Office will endeavour to further develop its capacity in.

*Local Drug Lab Ready to Test for Methamphetamine*

The Samoan Office of the Attorney General (SOAG) initiated a partnership with the Scientific Organisation of Samoa (SROS) and the Ministry of Police (MoP) to establish a Laboratory in 2013 dedicated to the testing of narcotics. This initiative was supported and contributed to by the Law and Justice Sector of Samoa.

In 2013 the capability of the Narcotics Lab was that it had 2 qualified analysts with the ability to identify
and test for the presence of cannabis substances. To date, as a result of assistance from both New Zealand Aid and Australian Aid, there are now 4 qualified analysts who can perform tests for cannabis.

The Prime Minister of Samoa in his speech in the opening of the Laboratory in 2013 announced that phase 1 of the project is now completed with the 3 partners (AGO, SROS, MoP) working together to complete phase 2 of the project. Phase 2 of the project was to enhance the capability of the lab to test for harder narcotics such as methamphetamine, otherwise known as ‘ice’.

Since 2013 the partnership has worked on increasing the capabilities of the Lab to test for methamphetamine and its precursors. The Lab is now equipped with high quality machinery for the testing and identifying of methamphetamine and its precursors, and 2 local scientists have completed the requisite training and obtained certification as qualified analysts to test for these more serious narcotic substances. This second phase of the project would not have been completed but for the commitment of SROS, New Zealand Police who have supported and assisted with this project from the beginning and New Zealand Government in funding the training of these 2 scientists for this additional level of expertise in analysing methamphetamine.

The number of narcotic cases being prosecuted in Samoa has been well assisted by the Lab and its specialist services, providing prompt testing and reporting of results for court purposes. This in turn has allowed for timely prosecution and disposition of narcotics cases before the courts. This initiative has also proven to be a cost effective project, saving the Government of Samoa thousands of dollars every year from sending samples overseas for testing. Samoa can now perform the same tests at a fraction of the cost, as well as saving costs for scientists to travel from overseas to Samoa to give evidence in court. The project has also provided further opportunity for young scientists in Samoa to pursue another area of expertise as a career in the field of science.

Acknowledgment is given to the Samoan Ministries of Revenue and of Health for their continuous support in assisting the SOAG in obtaining the necessary documentation and approved quotas from the International Narcotics Control Board to ensure certain requirements are met for SROS to provide this additional service for the enforcement of law in the country. For the benefit of our communities and our future, this Lab is now armed with the capabilities to fight against drugs. The vision of this partnership to be a leader in the Pacific in establishing such a Lab has been realised and it is hoped in the near future, other Pacific countries will be able to utilise this well established facility to assist in fighting drug crimes.

The continual development of the Lab is now under the care of SROS and its management. The SOAG has enjoyed working together with SROS in such a project. The project was only successful through the commitment of SROS and its management to this partnership. The Attorney General therefore congratulates SROS and wish SROS all the best for the long and hard work that must continue with the maintenance and continual development of this lab and its scientists.
Model Forensic Laws for the Pacific

From 25 to 29 May 2015, representatives of PILON as well as members of the Pacific Island Chiefs of Police (PICP) Pacific Forensic Working Group (PFWG) visited Canberra, Australia to discuss forensic laws and capabilities in their home countries and consult on draft model forensic provisions being developed for the Pacific. These consultations followed on from the Pacific Forensic Legislation Review which was presented at the annual PILON conference in Kiribati in 2014.

Why are modern forensic laws important?
In 2013 the PICP, a regional network of 20 Pacific Island police services, identified strengthened forensics legislation as a key issue for supporting modern and effective law enforcement in the Pacific. In particular Pacific police had raised concerns that these laws were not keeping pace with their growing forensic investigation capabilities. As a result, the PFWG requested that the Australian Attorney-General’s Department (AGD) conduct a Pacific Forensic Legislation Review (Review).

The Review examined the way forensic evidence is being collected and used in Pacific Island countries now and is likely to be into the foreseeable future. It also identified a range of legal benchmarks that Pacific laws should meet, to facilitate the effective and appropriate use of forensic evidence. The key finding of the Review was that police in most Pacific Island countries lack many of the legal powers they need to use modern forensic investigation techniques.

These gaps can affect the ability of police to: protect evidence at a crime scene, collect electronic forms of evidence such as telecommunications records, collect identifying particulars – including DNA – from suspects, and obtain evidence from forensic analysts in a cost-effective manner. Without modern laws to support the collection of forensic evidence, law enforcement will not be as effective as it can be. For example, crimes may not be prosecuted because key evidence cannot be lawfully collected or used as evidence in court. Likewise, ensuring police have adequate legal powers will reduce risks that forensic evidence will be challenged in court and found inadmissible.

Model Forensic Laws for the Pacific
The Review was endorsed by PICP in 2014 and recommended that a regional approach be taken to drive law reform through the development of model provisions for the collection and use of forensic evidence. At the request of PICP, AGD is now developing model laws to facilitate reform of Pacific forensic legislation.
The model provisions build on the effective forensic provisions which currently exist in some Pacific Island countries, allowing them to be used as a model in neighbouring countries. A regional approach will also promote greater consistency in Pacific forensic laws, making it easier for law enforcement agencies from different Pacific Island countries to request and obtain evidence under mutual assistance processes.

The model provisions will not constitute a complete Bill, but rather serve as a regional resource that Pacific Island countries will be able to draw on to address gaps in their existing legislative frameworks in ways that are appropriate for, and tailored to, their individual countries. Upon request and subject to available resources, AGD may be able to provide countries with bilateral assistance to implement the model provisions.

The May workshop provided a valuable opportunity to consult with legal policy officers and prosecutors on the model provisions to ensure that they are adapted and appropriate for the Pacific. AGD will continue to consult with PILON and PICP representatives in the finalisation of the model provisions.

If you would like any further information on the model forensic provisions, please do not hesitate to contact Luke Muffett from the Australian Attorney-General’s Department at luke.muffett@ag.gov.au.

**NEW DEVELOPMENTS IN PACIFIC MARITIME BOUNDARIES - Establishing baselines at international law**

Robyn Frost, Australian Attorney-General’s Department

All Pacific Island Countries are parties to the United Nations Convention on the Law of the Sea, 1982 (UNCLOS). Under UNCLOS, a coastal State’s maritime zones, which include the territorial sea, exclusive economic zone (EEZ) and continental shelf, are measured seaward from baselines. In most cases, the normal baseline will be the low-water mark along the coast.

However, for islands with fringing reefs or which are situated on atolls, the baseline will be the seaward low-water line of the reef. As most of the islands in the tropical Pacific are atolls or have fringing or barrier coral reefs, the baseline will typically be the reef edge.

UNCLOS also allows for States comprised of one or more archipelagos to declare ‘archipelagic’ baselines, provided the tests set down in Article 47 are met. Archipelagic baselines are straight baselines connecting the outermost points of the outermost islands or reefs of the main islands within the archipelago. Where archipelagic baselines are drawn, the State’s maritime zones are measured from these baselines.

New developments in determining maritime zones

The long-standing method for depicting a country’s baseline or the outer limits of its maritime zones is...
to use large-scale hydrographic charts. Traditionally, charts were drawn using information from physical surveys from the land or sea. Changes in technology, in particular, the use of aerial photography and satellite imagery, mean that the location of the baseline can be ascertained more accurately.

The development of electronic navigation systems and vessel monitoring systems facilitate the use of precise, digital representations of the limits of a State’s maritime zones. Increased interest in exploring and exploiting deep sea minerals requires a greater degree of precision in determining the outer limits of a State’s continental shelf, in order to clearly distinguish those areas of the continental shelf within the State’s jurisdiction, and the seabed beyond national jurisdiction (‘the Area’, in Part XI of UNCLOS), and to allocate leases or titles to seabed minerals within a State’s continental shelf.

**Pacific Maritime Boundaries Project**

Commonly, maritime zones legislation will describe the outer limits of the EEZ, for example, as being the line measured 200 nautical miles seaward from the territorial sea baseline. The project partners are assisting the Pacific Island Countries to develop legal instruments to declare their territorial sea baselines and the outer limits of their maritime zones using geographic coordinates, rather than using hydrographic charts. Under the approach advocated by the project partners, the outer limits of a State’s maritime zones are described with more precision. Once the outer limits are calculated and declared in law, the distance from the baseline is no longer a factor in determining where the outer limit is. This has a number of benefits, including for law enforcement, as it removes doubt about where the limits of a State’s maritime zones are located.

Acquiring baseline data and generating and proclaiming the outer limits of maritime zones are resource intensive tasks. The greater degree of precision in the approach advocated in the Pacific Maritime Boundaries Project means that the resulting baselines and maritime zones limits are likely to remain in place for some time.

**The effects of sea level rise on Pacific Island Nations’ maritime jurisdiction**

Sea level rise is a pressing issue for Pacific Island Countries. At first glance, the consequences for a State’s maritime zones are that as sea levels rise, the extent of a State’s maritime zones will decrease, due
to shrinking land mass, or even disappear altogether if the island from which the zones are generated is completely submerged. However, the situation may be a little more complex – and optimistic - than the headline predictions would suggest. There is evidence that atolls are dynamic and the majority of the atolls surveyed in a benchmark study have either remained the same or grown in size over the decades surveyed.\(^1\) This suggests that atolls may be more resilient to changes in sea level than previously thought. Rather than disappearing altogether, atolls may shift or even grow in area as sea levels rise.

The other factor is the location of baselines along reef edges. As coral grows towards sunlight, the tops of the reefs are likely to keep pace with rising sea levels. Consequently, the seaward low water lines of the reef which provide the baseline for most Pacific Island Countries are likely to remain relatively stable, even as sea levels rise.

This is not to downplay the real challenges rising sea levels, as well as changes in climate and ocean acidification, pose for the island nations of the Pacific. However, it does indicate that these nations’ jurisdiction over their extensive marine areas may be more secure than some scenarios suggest.

\[\text{ Kiribati news} \]

**Prosecution training**

*Pauline Beiatau, Attorney General’s Office, Kiribati*

In December 2014 one week training was provided to the Kiribati Police Service prosecutors at the Police training centre in Betio, Tarawa. The training was coordinated by the office of the Attorney-General (DPP’s section) but funded by the Kiribati Police Service. The training focused mainly on the major problems usually experienced by the police prosecutors in prosecuting cases in Court. The training also covered the role of police officers under the new “Family Peace Act 2014”.

The training participants were not only police prosecutors from each station on South Tarawa, but also other police officers interested in the training. The training culminated in the prosecutors participating in a moot trial. The Office of the People’s Lawyer and the Judiciary (High Court) were also involved during the last day of the training.

A similar training will be provided during the middle of the year.

**Australian Attorney-General’s Department visit to Tarawa**

*Pauline Beiatau, Attorney General's Office, Kiribati*

Two legal officers, from the Australian Attorney-General’s Department (AGD), Timothy Mitchell and Louise Bartholomew, visited Tarawa from 21 – 28 May, 2015. The visit arose from the Kiribati DPP’s 3 month legal policy attachment with the AGD in Canberra from October to December, 2014. The purpose of the AGD legal officers’ visit was to provide legal policy development training and to carry out consultations with relevant stakeholders in the country on law reform. The law reform consultations were in regard to 2 sexual offences intended to be amended in the Kiribati Penal Code, Cap. 67.

The proposed amendments to the Penal Code are the provisions on rape and incest. Rape is to be given a broader definition and incest is to be defined in the Act to reflect the cultural understanding and meaning of incest in Kiribati. There are also a few additional amendments where new offences are to be included particularly in the context where dependants will be more protected under the Law.

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Whilst in the country, Tim and Louise were assisted by Kiribati DPP to arrange meetings with the stakeholders and to conduct the legal policy development trainings. The meetings began on Friday 22nd May and continued on Tuesday after the 25th May. The stakeholders for these consultations were the Attorney-General, Commissioner of Police, Parliament legal counsel, DVSO officer, Office of the People's Lawyer, RRRT focal point officer in Kiribati with Romulo from RRRT, Police prosecutors and the DPP.

The two AGD officers arrived in the country with the first draft of a Bill which was provided to the stakeholders. The stakeholders are expected to provide further comments they wish to make to AGD office through the DPP at the office of the Attorney-General in Kiribati.

The Legal Policy Development training was conducted at the NCC Kiribati Police Service boardroom. The training was basically to provide knowledge and skill on how to develop policies. There were a wide range of participants who attended the training including representatives from the Ministry of Women, Police, Health, Red Cross and Change of Law Commissioners. This was full day training and was conducted by the Kiribati DPP from the office of the Attorney-General assisted by the visiting AGD legal officers.

Since discussions on the project began in 2014, the project was formalised in 2015 between the DJBC, the PIFS, and the Samoa Office of the Attorney-General.

A manual is an important resource for the development and drafting of legislation. It is useful not only for the in-house drafter, but more so for consultant drafters engaged to provide drafting assistance to a country. The goal for any Government is to ensure that its laws do not sacrifice national interests for the sake of international standards.

Experience has shown that this is not always the case and often we are left to implement laws that have not taken into account the culture, experience and general way of life in Nauru. This experience has demonstrated that a manual is necessary to promote uniformity in the form, style and language of statutory laws, and to make the resulting laws clear, simple and easy to understand and use.

The project is divided into 3 phases spread over 4 months. Phase 1 involved planning, the initial drafting of the manual, and one week in-country
assistance to the DJBC by Ms. Nola Faasau and Ms. Loretta Teueli, legislative drafters from PIFS and Samoa respectively. The one week involved consultation and gathering of information from key stakeholders, specifically heads of Government departments who are responsible for policy and legislative reform. Discussions centred on the usefulness of a manual, its content, and how it would be utilised once completed. Comments were then incorporated into a first draft that was consulted with the Secretary for JBC (SJBC).

"The final product should be ready for launch in August 2015. An e-copy will also be made available on the Nauru Government website..."

The second and current phase involves further revision of the draft by DJBC, with further (remote) assistance from PIFS and Samoa. A second draft will be vetted by the end of June 19th June before it is distributed in Nauru for the second stage of consultations. Phase 3 will consider the comments from the second consultation and the submission of a final draft to the SJBC. The final product should be ready for launch in August 2015. An e-copy will also be made available on the Nauru Government website: www.ronlaw.gov.nr

The DJBC would like to thank the Forum Secretariat and the Samoa Office of the Attorney-General for their wonderful and continuing support for this project and encourages all PILON member countries to utilise the resources available through PIFS and Pacific governments for the development of legislative drafting manuals and tools.

For further information on the project, contact the DJBC Legislative Drafter, Ms. Unaisi Narawa-Daurewa on unaisidaurewa@naurugov.nr or una.daurewa@gmail.com

From left to right: Loretta Teueli (Assistant Attorney General, Samoa), Nola Fa’aisau (PIFS Legislative Drafting Officer), Unaisi Narawa-Daurewa (Senior Govt. Lawyer – Legislative Drafting)

Helping to Develop Successful Policy Outcomes in the Solomon Islands
Philip Kanairara, Solomon Islands Law Reform Commission

The Solomon Islands Law Reform Commission (SILRC) has successfully conducted a two day Legal Policy Development Course training for Law Reform officers and other officers of the Ministry of Justice and Legal Affairs (8 – 9 June 2015).

Chairperson of SILRC Frank Bollen Paulsen (third from right) and the Trainer Philip Kanairara far left.

The Legal Policy Development Course was developed by the Australian Attorney General’s Department (AGD) in 2013, and since then the
AGD has delivered the Course to more than 150 public officials in the Pacific.

“Under the program officials are encouraged to become role models and advocates for good policy development practices and required to teach the Legal Policy Course in their own countries.”

In 2014, the AGD decided to train local trainers to deliver the Course. In May 2015, a staff member of the SILRC was among the first of 8 Pacific island public officials invited to participate in AGD’s “Pacific Legal Policy Champions Training Program” in Canberra, Australia. Under the Program officials are encouraged to become role models and advocates for good policy development practices and required to teach the Legal Policy Course in their own countries. This enables the authorised local trainers to reach a wide audience of officials across government – both who deal with legal and public policy development on a daily basis, and those who would like to know more about policy.

“The Course helps participants to better understand:
What policy is. The role of public servants and government ministers in legal policy development, and it also provides participants with a helpful framework to develop more successful policy outcomes. Developing good outcomes is a central feature of the Course, which uses the acronym ‘OUTCOME’ to set out the seven steps for successful policy development:
1) Obtain information about the problem;
2) Uncover and understand stakeholders;
3) Think ahead and plan;
4) Create options;
5) Outreach to stakeholders and decision makers;
6) Make it happen: and
7) Evaluate and monitor.

The Course also provides participants with a range of handy tools to analyse and develop options to address legal and public policy issues more generally. The Chairperson of the SILRC Mr. Frank Bollen Paulsen thanked the Australian Government through AGD for engaging the SILRC in this training initiative. He firmly believes that the knowledge of legal policy development is very crucial for those who are involved in policy development. He urged the participants to put into practice the knowledge they have acquired from the Course.

Please contact Philip Kanairara at the SILRC (+677 38773) if you wish to find out more about the course or have it delivered to your agency.

The SILRC can run the course over one or two days, and can tailor it to your agency’s needs.
Apart from illicit drugs, the region is surrounded by major markets for other illegal products including counterfeit items and various environmental commodities, such as animals and timber.

The Pacific’s expansive geographic area (more than 8 million square kilometres), combined with porous international borders, facilitates the occurrence of transnational organized crime throughout the region. Such activities have the potential to severely impede the political governance, stability and security of Pacific Island Countries and Territories (PICTs).

However, while transnational organized crime threats and trends have been investigated in other regions of the world, little research has investigated such issues and their impact on PICTs. To address this gap, the United Nations Office on Drugs and Crime (UNODC), in collaboration with the Pacific Islands Forum Secretariat (PIFS), is currently conducting a Transnational Organised Crime Threat Assessment (TOCTA) focusing on the Pacific region. The end result will be a report, which improves our understanding of transnational crime threats, challenges and trends and associated issues impacting PICTs.

Specifically, with the valued assistance of relevant local and regional stakeholders and agencies, the TOCTA involves identifying and analysing available and applicable datasets, policies and procedures pertinent to the various transnational crimes listed above.

In addition to investigating various threats and challenges, it is anticipated that detecting certain resource, knowledge and procedural gaps will inform appropriate and effective preventative measures and responses to transnational organised...
crime. Ideally, this could be achieved through multilateral, collaborative approaches involving local governments and services, foreign assistance providers, international partners, and regional organisations in criminal justice and drug control (e.g., the Pacific Islands Law Officers’ Network, the Pacific Transnational Crime Network, Australian and New Zealand Federal Police).

The TOCTA process commenced in June 2015 when UNODC representatives met with PICT delegates in Suva at the PIFS’ annual Forum Regional Security Committee (FRSC) meeting. It is anticipated that data collection and analysis will last 3–4 months, after which PIFS members will provide feedback on a draft report before TOCTA findings are presented to key stakeholders and partners at the FRSC meeting in 2016. The presentation will serve as a platform to begin identifying, developing and implementing multilateral programme options for assisting the region to appropriately address transnational crime threats and challenges.

Note: The Transnational Organised Crime Threat Assessment (TOCTA) is being supported by contributions by Australia and New Zealand.

The virtual currencies in the Pacific
David Tait, Commonwealth Secretariat

The global prevalence and economic impact of virtual currencies is growing year on year with the value of transactions rising more than 50% US Dollar terms between 2014 and 2015. While the Pacific as a region has, thus far, been a limited adopter of this technology, its influence is undoubtedly felt. This necessitates both legislative and judicial responses—criminal and civil.

In February 2015 the Commonwealth Secretariat (the ‘Secretariat’) convened a Roundtable which brought together representatives of 10 Commonwealth member states, including New Zealand and Tonga, with experts in the field of virtual currencies and cybercrime. At the Roundtable, Commonwealth members highlighted the lack of clarity regarding the prevalence of virtual currencies within their jurisdictions. Publicly available data can, however, address this knowledge deficit to a certain extent. The purpose of this article is to highlight some aspects of the Pacific experience.

...Bitcoin has been downloaded 188 occasions in the Pacific region.”

Prevalence of virtual currencies
When a person wishes to start using a virtual currency, they require to download the client (the end-user software that facilitates the secure use and transmission of the virtual currency). This is often secured, from an online software repository. Based upon the statistics available, from just one such repository, it can be observed that the client for one such virtual currency, Bitcoin, has been downloaded on 188 occasions in the Pacific region. Bitcoin miners, persons who generate new Bitcoins in return for validating transactions, have been logged as

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active in Australia and New Zealand, as well as Hawaii in the Northern Pacific. Similarly, the Bitcoin Community website has been viewed on 3,644 occasions by persons in the Pacific. While there has clearly been limited penetration within most Pacific jurisdictions, this still illustrates the infrastructure to utilize virtual currencies is already being exploited within the region.

Real world impact
In Australia and New Zealand, merchants (businesses who accept virtual currencies) have sprung up in diverse industries including wine, jewellery making, food and beverage, web design, plumbing and healthcare. Both jurisdictions have Bitcoin ATMs permitting the exchange of cash for virtual currency, as does Hawaii. The prevalence of such services has, however, been limited by an inability of those providing virtual currencies services in the region to obtain fiat banking facilities. It has been suggested that this was due, at least in part, to a concern that such undertakings could not satisfy anti-money laundering and counter-terrorist financing obligations.

However, for virtual currencies to have an effect upon the economic and legal system of the Pacific, it is not even necessary for residents of the region themselves to make use of them. At the time of writing one online market is advertising residential and commercial properties in Tonga and Fiji for sale in Bitcoins valued at more than $1,700,000.00. The market upon which these properties are advertised facilitates purchases by providing an escrow facility. While this particular market does make reference to real estate laws in particular jurisdictions, there is no clarity on how the actual process of conveyancing, registration of a change in title, payment of any relevant taxation or compliance with national anti-money laundering provisions would be observed.

Commonwealth Virtual Currency Survey
Given the obvious importance of these developments for Pacific jurisdictions, and charged by Commonwealth members at their meeting in February 2015, the Secretariat is embarking on an ambitious exercise to survey the prevalence of virtual currencies in 15 Commonwealth member states. A particular emphasis will be placed on the Pacific with 4 states being surveyed. The aim will be to inform both the deliberations of the Commonwealth Working Group on Virtual Currencies and to provide a report to the meeting of Law Ministers of Small Commonwealth Jurisdictions in 2016.

The Survey will investigate not only the extant legal and regulatory position within Commonwealth members, but also key factors indicating the presence and prevalence of virtual currencies...

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10 Bit Premier accessed 7 May 2015
“experiences are as diverse as the states themselves. Many, in particular small states, are unsure of the impact of virtual currencies. More research and awareness raising on this topic is critically needed.”

The Commonwealth Virtual Currencies Survey marks a determination to meet that need.

New guidance for protection of health care through legal frameworks
Netta Goussac, International Committee of the Red Cross (ICRC)12

An airstrike destroys the paediatric and premature baby section of a hospital, killing, among others, five babies and three mothers. A health-care centre occupied by security forces for days, preventing patients’ access to medical treatment. A clearly marked ambulance misused for an arrest operation. A doctor threatened not to treat wounded combatants of an armed group. These incidents and others were recorded by the International Committee of the Red Cross (ICRC) in the last two years, uncovering untold suffering that violence against health care is causing to thousands.

Most states have legal frameworks in place aimed at regulating the health-care systems on their territory, but few are designed specifically to address situations of armed conflict and other emergencies.

The ICRC has developed practical recommendations and tools on strengthening legal frameworks to protect health care. We hope that these recommendations and tools will serve as a source of guidance and a basis for further development of practical domestic measures to enhance protection for the provision of and access to health care.

Violence against patients and health-care workers is one of the most crucial yet overlooked humanitarian issues today. Health Care in Danger is an ICRC-led project of the Red Cross and Red Crescent Movement aimed at improving security and delivery of impartial and efficient health care in armed conflict and other emergencies.

Upcoming meetings

Invitations have been sent for the 4th Commonwealth Red Cross Red Crescent Conference on IHL, to be held from 20 to 23 July in Canberra. This Conference will bring together Commonwealth Member States and their National Red Cross and Red Crescent Societies to discuss new issues in IHL, including the impact of new weapons and armed actors, the protection of vulnerable groups such as women and children, the punishment of violations of the laws of war and safeguarding cultural property in times of war. We look forward to welcoming Commonwealth Members from the Pacific to Canberra in July.

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12 The ICRC is an impartial, neutral and independent organisation whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence, and to provide them with assistance. The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. The ICRC’s Pacific Regional delegation is based in Suva, with Missions in Canberra and Port Moresby
The 32nd International Conference of the Red Cross and Red Crescent will take place in Geneva from 8 to 10 December 2015. Representatives of nearly every government in the world, the Red Cross and Red Crescent Movement and partner organisations will gather for this Conference, which takes place every four years and is the premier global forum to enhance and inspire humanitarian debates. We encourage PILON members to keep this date in their calendar.

Need more information?

No matter your location, you can always access up-to-date information on a range of issues in international humanitarian law through the ICRC Legal Advisory Service fact sheets, ratification kits and model laws.

The ICRC stands ready to provide assistance, advice, information and tools to PILON members. Please contact Netta Goussac, Regional Legal Adviser (ngoussac@icrc.org, +61 2 6273 2968)

The interest and investment in deep sea minerals is gaining momentum, and the Pacific region is at the forefront of this development with Papua New Guinea (PNG) having already issued a deep sea mining licence whilst other Pacific Island States have issued exploration licences. Accordingly, the pressure is on Pacific island leaders to put in place adequate governing mechanisms to effectively and resourcefully manage its deep sea mineral (DSM) resources whilst sufficiently protecting the marine environment.

To assist Pacific island states, the Deep Sea Minerals Project, a collaboration between the Secretariat of the Pacific Community (SPC) and the European Union (EU), conducted its 6th Regional Training Workshop on Deep Sea Mineral Policy Formulation and Legislative Drafting in Apia, Samoa from 18th – 22nd May 2015. The main objective of the workshop was ‘Supporting Pacific countries in the development of strong, robust and effective regulatory frameworks to regulate and monitor DSM activities’.

The workshop brought policy officers, legislative drafters and civil society representatives together to discuss key elements of developing robust and effective regulatory frameworks. About 70 Representatives from the following 12 countries participated in the workshop: Cook Islands, Fiji, Kiribati, Republic of Marshall Islands, Nauru, Niue, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Each country presented to the group their status and achievements in the DSM sector.

“The interest in deep sea mining in the Pacific has prompted a number of Pacific Island States to develop their policy and legislation.”
The importance of public consultation and the need for accountability, transparency and good governance in all aspects of formulating DSM instruments at national level was highlighted during the workshop. From discussions the countries were able to share experiences and challenges and to identify the strengths and weaknesses in existing DSM policies and legislation and grasp whether there is need for further development and changes.

The participants agreed that having robust and effective regulatory frameworks in place before issuing exploration and mining licenses is crucial to the effective control and demarcation of power and decision making.

The main outcome of the workshop was the fostering of a ‘Community of Practice’ which will provide a forum whereby policy officers and legislative Drafters involved in DSM across the region have the opportunity to collectively address common issues faced in regards to the development and governing of deep sea mining.

The Community of Practice will foster a regional way forward for DSM development where countries can assist one another and commit to be more responsible, not only as a sovereign State but also as part of a bigger Pacific community.

The interest in deep sea mining in the pacific has prompted a number of Pacific island states to develop their policy and legislation. The SPC-EU Deep Sea Minerals Project is assisting these countries, when requested, to develop these crucial documents.

Cook Islands being the first country in the region to have in place a legal framework established its *Cook Islands Sea Bed Minerals Act* in 2009 and also have a national DSM policy in place. In 2013, Fiji introduced its *International Seabed Management Decree* and is currently reviewing its DSM policy.

In 2014, Tonga created history by being the first country in the world to legislate deep sea mining in its national jurisdiction under its *Tonga Seabed Minerals Act* and is yet to finalise their DSM Policy. Moreover, Tuvalu also introduced its *Tuvalu Seabed Minerals Act* in 2014 and is currently finalising their DSM Policy. *The Mining Act* in PNG dates back to 1992 which governs mining activities and this is further supported by its National Off-shore Mineral Policy. Both of these instruments are currently under review.

Other Pacific Island States such as Kiribati, Federated States of Micronesia, Republic of Marshall Islands, Nauru, Niue, Solomon Islands and Vanuatu are still finalising their respective deep sea mining legislation and policies and are currently undergoing consultations at national level.

For more information please do not hesitate to contact us or to consult the SPC-EU DSM Project’s website: [http://gsd.spc.int/dsm/](http://gsd.spc.int/dsm/)
Role models and advocates in the Pacific—the 2015 Pacific Legal Policy Champions program

In May 2015, the Pacific Crime and Policing Section of the Australian Attorney-General’s Department (AGD) hosted eight representatives from the Pacific as part of AGD’s new Pacific Legal Policy Champions training program.

This year the representatives included:

- Kearnneth Nanei A/g Secretary of Justice, and Amanda Masono, Senior Legal Officer, Department of Justice, Autonomous Region of Bougainville

- Ruth Kiddy, A/g Principal Legal Officer, Department of Justice and Attorney-General, Papua New Guinea

- Constance Tafua-Rivers, Legal Consultant, Office of the Attorney General, Samoa

- Philip Kanairara, Chief Legal Officer, Solomon Islands Law Reform Commission

- Johnathen Kawakami, lead prosecutor in the Attorney General's Office, Republic of the Marshall Islands

- Treta Sharma, Senior Legal Officer, and Rita Sami, Legal Officer, Office of the Attorney-General, Fiji.

The AGD Policy Champions program targets high potential Pacific law and policy officers, building their capacity in legal policy development, helping them to become role models and advocates for good legal policy development practices in their home countries, and encouraging them to build and sustain strong networks to embed good policy development practices in the region.

During their time with AGD, the Policy Champions learnt how to deliver the AGD Legal Policy Development course, and met with subject matter experts to workshop a range of policy issues they identified as relevant to the Pacific, including:

- human trafficking,
- illicit drugs
- illegal fishing
- sexual and gender based violence
- cybercrime, and
- corruption.

The 2015 Policy Champions have now returned home and are keen to share the course with you.

Beginning with an overview of the concept of policy development, the course explores definitions of ‘policy’ and the place of ministers and the public service within the process. It then guides participants through a seven-step ‘OUTCOME’ model (which is outlined above in the article from one of this year’s ‘policy champion’s, Philip Kanairara, titled “Helping to Develop Successful Policy Outcomes in the Solomon Islands”).
Since its development in 2013, the Australian Attorney-General’s Department has delivered the course to over 150 Pacific policy makers, drafters, police and other government officials in Australia, Tonga, Kiribati, Samoa, the Solomon Islands, Fiji, Tuvalu and Nauru. If you would like to know more about the Champions Program or legal policy training in the Pacific more broadly, please contact the Australian Attorney-General’s Department Pacific Section on pacific@ag.gov.au.

INTERESTED??? APPLY NOW!

Want to participate in the AGD Pacific Legal Policy Twinning Program?

Applications are now open, and close on Monday 20 July 2015.

Acceptance is through a competitive process. The successful candidates will undertake a two month placement in AGD to work on a current legal policy project with a crime and policing focus, improve their legal policy development skills, and become effective role models and advocates for good policy practices at home and in the region. Have a look at the Talanoa March 2015 to find out what last year’s twins did during their placement.

Applications should be emailed to Pacific@ag.gov.au or posted to AGD by 20 July 2015. Applications can also be used to identify our next Pacific Legal Policy Champions.

Enquiries about the Program should be directed to Corinne Vale on +61 2 6141 3409 or corinne.vale@ag.gov.au.
Wilisoni Lagi Kurisaqila was born on 27 March 1964 in Fiji’s second largest city, Lautoka. He was from the province of Nadroga in western Fiji. His maternal ties were rooted to kin in Mavana village, Vanuabalavu in the Lau group. His father represented Fiji in rugby and was a prominent member of the rugby fraternity. Wilisoni however chose not to follow the footsteps of his father, a medical doctor (who later became a prominent politician and Speaker in Fiji’s House of Representatives) but instead elected to pursue a career in the law. He completed his undergraduate studies in law in the United Kingdom from Buckingham University.

He returned to Fiji to complete a Professional Diploma in Legal Practice and was called to the bar amongst other pioneering colleagues in 1998. He was amongst the first cohort of law students who graduated from the newly established PDLP program.

After a short stint at the Suva law firm of GP Lala and Associates, Wilisoni was recruited into the office of Director of Public Prosecutions in Fiji in 1999. Here began a lifetime career in the field of criminal prosecutions which he pursued with passion and conviction. He steadily rose through the ranks of the DPP’s office gaining the respect of both his colleagues at the Bar and the Bench. He successfully prosecuted men of chiefly as well as stated invested authority. He discharged his prosecutorial responsibilities fearlessly. No one could ever accuse him of bias. He was instrumental in securing convictions in the Naiqama, Malasebe and Verebasaga cases, to mention a few. That he was able to navigate the difficult territory that would face an indigenous Fijian having to prosecute persons who he had traditional ties to spoke volumes about Wilisoni’s unwavering sense of justice and to do what was right by the law.

By the time of his departure from that office, precipitated by the political upheavals in Fiji in 2006, he had risen to the rank of Deputy Director. Not one to be easily disheartened, and still at the zenith of his career, he accepted an offer from the Government of Nauru and in October 2009 was appointed the country’s Director of Public Prosecutions. He was to remain in that position until his death. That he spent such a considerable time away from his family and the land of his birth was a reflection of his commitment to Nauru, a country that he regarded as his second home and which in turn had come to embrace him as one of its sons.

“He prosecuted the offenders with conviction and resolve, without fear or favor. In doing so, he won the respect of both friend and foe alike.”
Wilisoni was not just big in stature – he was big in heart. He had an imposing frame that demanded respect. He was a lawyer’s lawyer and the embodiment of a prosecutor – fearless, bold and imposing.

During the mayhem that gripped Fiji following George Speight’s failed coup, Wilisoni led some of the most significant prosecutions against its perpetrators and supporters. He was also at the forefront of significant prosecutions against police and military officers whom in the event of arresting citizens, used excessive force resulting in deaths.

With an unmistakably baritone and robust court presence there was never any hint of reservation or meekness in his approach to his cases. He prosecuted the offenders with conviction and resolve, without fear or favor. In doing so, he won the respect of both friend and foe alike.

Throughout his career Wilisoni mentored many prosecutors and police investigators. Many turned up at his funeral to pay homage, to be reminded of his gentle and yet sure tutelage in the refining of their advocacy skills. His mentoring has undoubtedly contributed to their skills and success in the field of criminal law.

Wilisoni was color and race blind. It is telling that amongst other colleagues, his long standing colleague Asishna Prasad flew from New Zealand to deliver an emotional eulogy at his funeral service. That was an indication of the regard in which he was held by his colleagues. His dry wit was often cutting. He was not a man who bore an iota of malice in his large frame. The Wilisoni that everyone knew was a decent man whose humanity was manifest in all that he did and how he treated people around him. His physical stature belied a gentle spirit. His affable nature made people naturally gravitate and warm towards him.

Wilsoni’s death in Nauru on 20 June 2015 was an event of profound sadness which shocked his many friends and colleagues. The esteem in which he was held in the community was evidenced by the fact that the President of Nauru, H.E. Baron Waqa M.P. awaited at the airport under the hot tropical sun, the cortege carrying his casket for his final journey home to his beloved Fiji.

Wilisoni is survived by his wife Frances, a daughter Litia and his son Apenisa.

In scripture we are reminded that “many are called, but few are chosen.” Wilisoni was indeed chosen. We give thanks to God for a life fulfilled.

Lionel Aingimea
Secretary for Justice & Border Control, Nauru
30 June 2015