



**Pacific Islands Law Officers' Network Annual Meeting  
Outcomes Report  
12-16 December 2009, Samoa**

The Chair, Samoan Attorney-General Ming Leung Wai, convened the 28th Pacific Islands Law Officers' Network (PILON) annual meeting from 12-16 December 2009.

PILON member countries represented at the meeting included Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, New Zealand, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Tonga, Tuvalu and Vanuatu. Apologies were received from Solomon Islands.

Gratitude was expressed for financial support from AusAID provided to facilitate the attendance of six delegates from Pacific island countries.

The following observer members also attended: the Commonwealth Secretariat; International Committee of the Red Cross; Pacific Islands Forum Secretariat; Pacific International Maritime Law Association; Pacific Legal Information Institute (PacLII); Secretariat Pacific Regional Environment Program; the Pacific Islands Forum Fisheries Agency; University of the South Pacific and Secretariat of the Pacific Community. The United Nations Office on Drugs and Crime (UNODC); Lexis Nexis; Auckland University; Regional Rights Resource Team (RRRT); the International Federation of Red Cross and Red Crescent Societies; the Pacific Prosecutors' Association; and AusAID observed the meeting.

This report summarises the outcomes of discussions at the meeting. It is the official record of meeting resolutions and a summary of key discussions. Documents relating to the meeting are available on PILON's website at [www.pilonsec.org](http://www.pilonsec.org) or otherwise from the Secretariat at [pilon.secretariat@ag.gov.au](mailto:pilon.secretariat@ag.gov.au).

**A. Opening address**

The Acting Prime Minister of Samoa, Hon. Misa Telefoni, opened the meeting with an official address to PILON members.

## **B. PILON Chair's Report**

The Chair provided an overview of PILON focusing on the importance of a regional network to discuss issues of law and justice significance in all Pacific island countries. The Chair welcomed members to Samoa and called for an action orientated meeting.

## **C. PILON Secretariat Report**

The PILON Secretariat advised that the PILON member for Kiribati had attended the Forum Regional Security Committee (FRSC) meeting to update the FRSC on regional harmonization of extradition legislation. PILON was also represented at the PaCLII Advisory Board meeting in Port Villa.

The PILON Secretariat attended the Pacific Islands Chiefs of Police Conference in Port Moresby at which a paper was distributed on the legal frameworks required to ensure that Pacific Patrol Boats can be effectively used to address broader criminal threats. This item was tasked to the PILON Secretariat at the 27<sup>th</sup> meeting and the paper was distributed to PILON members at the meeting.

The Secretariat provided an update on capacity building opportunities in legal aspects of maritime boundaries, as tasked to it at the 27<sup>th</sup> PILON meeting.

## **D. Transition to a permanent, independent PILON Secretariat**

In the Secretariat Report members were advised that although it had been actively seeking funding for the permanent, independent secretariat, no funding had been identified. Members were advised that a number of funding applications were pending and that the Secretariat expected a response shortly.

The Secretariat advised on its continuing arrangements as the interim host of the Secretariat in the Australian Attorney-General's Department. Members thanked Australia for its support to the interim Secretariat since 2007.

During the meeting, the Chair advised members that Australia had identified funding for an independent Secretariat, which would be based in the Pacific islands. The approved funding would provide for the salary of a secretariat coordinator and the costs associated with office accommodation and equipment for a period of three years.

The Executive Committee proposed the following recommendations which were agreed to by Members:

- for the independent Secretariat to be based in Samoa for an initial three years
- the Executive Committee to review the location and structure of the PILON Secretariat after two years and provide updates at annual meetings with the intention of transitioning to a permanent Secretariat co-located with the Pacific Islands Forum Secretariat
- opportunities will be given for the PILON Secretariat to be staffed by personnel from PILON member countries

- the Executive Committee to be tasked with investigating the most effective structure for the employment of staff of the PILON Secretariat
- the Executive Committee to be authorized to approve the arrangements for this transition over the coming year
- if there is a need to alter the legal status of the PILON Secretariat the Executive Committee must seek authority from a majority of PILON member countries
- the PILON Secretariat to be tasked with cooperating with PILON members, observers and donors to identify sources of funding over the longer term, including through possible donor and member contributions.
- the PILON Secretariat to be tasked with investigating options for the funding of additional staff for the PILON Secretariat, including opportunities for international volunteer placements with the Secretariat

Members noted the importance of sustainable financing and tasked the Secretariat with preparing a discussion paper for the 29<sup>th</sup> meeting on methods to fund the PILON Secretariat in the long term.

The interim PILON Secretariat advised that it would be available to work with staff of the independent Secretariat to facilitate the transition of functions.

Member countries expressed gratitude to the Australian Government for hosting the interim PILON Secretariat from the 26<sup>th</sup>-28<sup>th</sup> PILON annual meetings.

#### **E. Lack of capacity in prosecution and law offices**

Members noted the Secretariat's presentation on the stock-take of current legal training, secondment, attachment and exchange activities.

New Zealand circulated details of its contribution to the stock-take and all members were encouraged to provide the Secretariat with information about their needs for future training, exchange and secondment activities.

PILON members raised their concerns over a lack of capacity in prosecution and law offices. At the 2008 PILON meeting the PILON Secretariat was tasked with providing members with a proposal for the Secretariat to become a coordination point for providing this information to members. Members agreed for the Secretariat to collate information on secondment and exchange initiatives provided by members and observers and draft a stock-take of activities.

Members were encouraged to provide information to the Secretariat on possible secondment and exchange opportunities.

The PILON Secretariat committed to keeping the stock-take updated and distribute the stock-take, together with other relevant information and advice, to members on request.

Members noted Australia's two significant initiatives it had undertaken over the past year. Firstly, Australia had prepared a draft framework for its law and justice engagement in the Pacific. Members agreed to examine the details of the proposed

framework, and to offer views on its strategic direction. Secondly, Australia 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. This would focus on legislative policy skills, and would complement Australia's existing twinning programs on legislative drafting, prosecutions and law libraries.

Members noted New Zealand's discussion on the outcomes from the 2008 PILON Litigation Skills Program (LSP). Members noted the positive evaluation material of participants of the LSP and New Zealand Crown Law's conceptual proposal seeking funding support for another basic LSP in 2010; and the first dedicated Pacific advanced LSP in 2011. Members considered LSP an effective program for building the advocacy and litigation skills of Pacific government lawyers and recorded PILON's continued support for the program. Members noted the suggestion of New Zealand Crown Law for the opportunity for the PILON Secretariat to attend the next LSP in order to understand the program and discuss future collaboration with LSP.

#### **F. Sexual and Gender Based violence**

PILON members noted the presentation by RRRT and expressed support for the work of RRRT in their efforts to tackle gender based violence in the Pacific.

PILON members agreed to consider 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 was tasked to provide an update on legislative efforts to combat gender based violence at the 29<sup>th</sup> meeting.

#### **G. Pacific Prosecutors Conference**

Members supported the creation of the Pacific Prosecutors' Association (PPA) at the recent Pacific Prosecutors' Conference in July 2009 and noted the presentation by the PPA.

Members noted that the PPA will hold a meeting of the Pacific Prosecutors Association immediately following the PILON meeting on 16 December 2009.

Tonga asked for matters of membership to be discussed at this meeting.

#### **H. Illegal Fishing**

Members noted the presentation by the Forum Fisheries Agency on the need for stronger legal frameworks to combat illegal fishing.

Members tasked the PILON Secretariat to liaise closely with the Pacific Islands Forum Fisheries Agency to: inform PILON members of approaches to combat illegal, unreported and unregulated fishing activity; to discuss capacity building opportunities with the FFA; and to collaborate in the strengthening of national legislative frameworks and prosecution support.

## **I. Impact of technology on the practice of law**

Members noted the presentation by Lexis-Nexis and discussed the importance of the impact of information technology in government law offices.

## **J. Admission to practice**

Members noted the presentation by the University of the South Pacific (USP) on the connection between plagiarism at law school and being a fit and proper person for admission to practice law. It was discussed how Pacific and Australian jurisdictions have approached this issue and the USP welcomed the views of PILON members on admission to practice.

Cook Islands raised the potential impediment to secondees making appearances in other jurisdictions for training purposes. This was noted by Members.

## **K. PacLII**

Members noted the presentation by the University of the South Pacific on behalf of PacLII. Members noted PacLII's proposed transition towards sustainable financing and agreements with Pacific island governments with the intention of each country having their own legal information institute in the next 10-15 years.

PILON members noted their ongoing support for the work of PacLII.

## **L. Legal Preparedness for international disaster**

Members noted the presentation by the International Federation of Red Cross and Red Crescent Societies (IFRC) on their Guidelines for the Domestic Facilitation and Regulation of International Disaster relief and Initial Recovery Assistance.

The Guidelines set recommendations to government on how to prepare disaster plans for the common regulatory problems in international disaster relief operations.

Members were encouraged to contact the IFRC if their governments are interested in reviewing their existing frameworks, discussing gaps in their legislation and potential priorities in disaster relief legislation.

## **M. Hague Conference Conventions**

Members noted the presentation by New Zealand on the Hague Family Conventions and what needs to be done to adopt the conventions.

New Zealand encouraged Members that are interested in becoming a party to one or more Hague family conventions to advise the PILON Secretariat if they require assistance to do so, and the nature of that assistance.

The PILON Secretariat was tasked to consider ways to work with those members who require assistance to identify possible sources of funding.

## **N. Commonwealth Secretariat Prosecution Training and the Commonwealth Secretariat Prosecution Disclosure Survey in the Pacific**

Members noted the presentation by the Commonwealth Secretariat on their prosecution training and disclosure survey.

Members appreciated the Commonwealth Prosecution Training Program for Asia/Pacific that was completed between April and June 2009 and the ongoing 12 month voluntary mentoring scheme.

The Commonwealth Secretariat advised of the extension beyond 30 June 2010 of the current voluntary Commonwealth Mentoring Scheme between Pacific prosecutors and New Zealand and Australian prosecutors if it is found to be of continuing use by PILON, Commonwealth member countries.

Members noted Commonwealth Secretariat's interest in increased collaboration with the Pacific Prosecutors' Association and International Association of Prosecutors (IAP) in developing networking among prosecutors.

The Commonwealth Secretariat will use the ongoing mentoring program to assess needs to facilitate where possible in-house mentoring and placements according to specific needs in Pacific island countries; as well as looking into ongoing collaboration with IAP in the work of the Global Prosecutors E-Crime Network (GPEN).

## **O. Safety for domestic vessels**

Members noted the presentation by SPC on the importance of safety regulations for small non-SOLAS vessels. Interested PILON member countries were encouraged to consider working with SPC to review domestic maritime safety laws.

PILON members were urged to work closely with the maritime sector. PILON member countries with an interest in reviewing domestic maritime legislation and regulations were encouraged to seek assistance from SPC to develop maritime/shipping policies.

## **P. Maritime boundary delimitation**

PILON members noted SPC/SOPAC's presentation on maritime delimitation and recommendation that bilateral arrangements are the practical option due to the prohibitive costs and uncertain outcomes associated with third party settlements.

Members noted SOPAC's recommendation that countries consider having baseline data reflected in law and published in order for maritime boundaries to be formalized.

SOPAC commits to continue to provide technical advice to PILON members on maritime boundary issues.

The PILON Secretariat reiterated that assistance in legal aspects of maritime boundaries is available through the Maritime Boundaries section at the Commonwealth Secretariat.

### **Q. Private Military Security Companies**

Members noted the International Committee of the Red Cross' presentation on private military security companies and international law. It was noted that the Montreux Document on private military and security companies addresses an international need, which is relevant to the Pacific region.

The document offers a flexible and focused guide in assisting governments to promote accountability and observance of international humanitarian law and human rights law.

Members welcomed the document and expressed their appreciation to the ICRC for its offer to provide further advice and guidance on the most effective ways to implement the recommended practices.

The Secretariat was tasked to work with the ICRC to provide an update on issues relating to private military security companies and the Montreux document at the 29<sup>th</sup> PILON meeting.

### **R. Climate change**

Members noted the presentations by the Secretariat of the Pacific Regional Environment Program and New Zealand on the legal effects of climate change and Copenhagen negotiations and the practical implications of implementing an emissions trading scheme respectively.

Members discussed the difference between mitigation versus adaptation to climate change. Members expressed that adaptation measures are more relevant to PILON member countries but there is a need to lead by example in mitigating the effects of climate change.

Members discussed what role PILON can have in providing a regional response to legal implications of climate change. Members tasked the PILON Secretariat with working with relevant partners to develop a discussion paper for the 29<sup>th</sup> PILON 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.

### **S. Pacific Islands Forum Secretariat Activities and Traditional Knowledge**

Members noted the presentation by the Pacific Islands Forum Secretariat. The Pacific Islands Forum Secretariat advised that it will shortly take forward an initiative under the Pacific Islands Forum's Pacific Plan, to explore options for improving regional support for Forum island countries' legislative services, courts and tribunals. The Forum Secretariat will consult closely with PILON members on this project, as well

as seek views on a proposed Pacific Law Conference to be convened by the Forum Secretariat.

#### **T. UNODC**

PILON members noted with appreciation the activities of the UNODC aimed at strengthening legal mechanisms against trans-national organized crime and terrorism in the Pacific Region.

PILON members noted UNODC's encouragement for PILON member countries to ratify as a high priority the UN Conventions and Protocols against trans-national organized crime, corruption and terrorism.

PILON members noted UNODC's encouragement for PILON member countries to utilize technical assistance available from UNODC relating to the ratification of such UN Conventions and Protocols, drafting of implementing legislation and training for criminal justice and judicial officers.

#### **U. Maritime Legislative Drafting**

PILON members noted the presentation by PIMLA and will consider the recommendation to be proactive in dialogue with their respective governments in terms of maritime issues. Members were requested to consider working with PIMLA to develop and progress working drafts of maritime law issues.

PILON members supported PIMLA's recommendation to establish a Pacific Islands Legislative Drafters Forum. Members gratefully accepted Vanuatu's offer to take the lead in working together with the PILON Secretariat to progress this recommendation with the intention of establishing a Legislative Drafters Forum, either online or by meeting, by the 2010 PILON meeting.

#### **V. Human Rights Relating to Prisoners**

Members noted presentations by Auckland University and the Republic of Marshall Islands on human rights relating to prisoners. Members appreciated the background paper on human rights relating to prisoners delivered by Auckland University and welcomed the experiences of the Republic of Marshall Islands.

PILON members are encouraged to consider their own legislative frameworks for compliance with international human rights instruments.

The Secretariat was tasked with coordinating a discussion paper, drawing upon previous work, on the implications of a regional human rights instrument to be presented at the 29<sup>th</sup> PILON meeting.

#### **W. Discussion of future issues and direction of PILON**

Members considered it desirable to consider international instruments which might promote stronger action against transnational crime, terrorism and corruption in the region and how PILON can assist.

## **X. Executive Committee**

Members agreed that the Executive Committee comprise representatives from the host country (to be decided), Samoa, Kiribati, Cook Islands and Australia.

## **Y. Twenty-ninth Meeting Hosting**

No member country offered to host the 29<sup>th</sup> PILON annual meeting. The Secretariat and Executive Committee will work with Members to identify a host and suitable dates to hold the meeting.

## **Z. Other Business**

Members noted the importance of the Chemical Weapons Convention and that there will be opportunities in the coming year for Members to discuss ratification and implementing legislation with relevant international bodies.

The Secretariat will call for nominations for a PILON member country representative to represent PILON on the PaCLII Advisory Board.

Members were advised that Australia would be hosting a meeting in mid-2010 of Pacific Islands Forum country ministers responsible for both fisheries and law enforcement/justice to seek agreement on stronger legal frameworks to combat illegal fishing. Australia requested PILON members to encourage their law enforcement/justice ministers to attend this meeting.