

## 36<sup>th</sup> PILON ANNUAL MEETING 2017

### OUTCOMES REPORT

1. Members of the Pacific Islands Law Officers' Network (PILON) met in Majuro, the Republic of the Marshall Islands for the 36<sup>th</sup> annual PILON meeting from 18-20<sup>th</sup> October 2017.
2. The Paramount Chief of Majuro Atoll, Iroijlablab Patrick Lein Zedkaia, welcomed PILON delegates to Majuro and gave his best wishes for a successful meeting.
3. The Honorable Michael Halferty, Minister for Justice, Immigration and Labor of the Republic of the Marshall Islands, delivered the keynote address emphasising to PILON Members that as senior government lawyers, that they have a great responsibility to ensure that legal frameworks in various jurisdictions work effectively, and urged them to build on the strength of the network to dialogue and engage actively for the benefit of the whole Pacific family.

### **PILON Strategic Priorities**

#### *Sexual and Gender Based Violence*

4. Members noted the report from Samoa as the Chair of the Sexual and Gender Based Violence (SGBV) Working Group and thanked Samoa and the other Working Group members (Australia, Cook Islands, Federated States of Micronesia, Kiribati, Nauru, Papua New Guinea, Republic of the Marshall Islands, Solomon Islands, Tonga, Tuvalu and Vanuatu) for their work over the last year, including in particular, the development of the Draft Principles for Obtaining the Best Evidence from Vulnerable Witnesses to Sexual and Gender Based Violence.
5. Members agreed that any comments or feedback on these Draft Principles will be provided to the SGBV Working Group no later than 17 November 2017, and that if no further comments are received, the draft Principles will be taken to have been formally adopted by Members.
6. Members reiterated their commitment to addressing sexual and gender based violence in the region, including the importance of encouraging victims of domestic and sexual violence to report such crimes to the police.
7. Members thanked Samoa for its presentation on Samoa's experience of implementing a requirement for police to pursue charges of domestic violence involving physical or sexual abuse under the Family Safety Act 2013, which retains the Public Prosecutor's usual discretion not to pursue a prosecution. Members noted that Samoa has had an increase in domestic violence prosecutions.
8. Members endorsed the forward work programme proposed by the SGBV Working Group, including:
  - (a) Further developing the use of special measures to protect vulnerable victims and witnesses of SGBV, (including alternative methods of giving evidence) through training, closer collaboration between prosecutors and police and the possible development of model legislative provisions; and
  - (b) Self-assessment of the SGBV laws and their effectiveness of each member of the Working Group, using the monitoring and evaluation framework developed by the Working Group in 2015 as a guideline.

9. Members committed to ensuring on-going support for the work of the SGBV Working Group.

#### *Cybercrime*

10. Members noted the report from Tonga as the Chair of the Cybercrime Working Group and thanked Tonga and the other Working Group members (Australia, Cook Islands, New Zealand, Nauru, Solomon Islands and Vanuatu) for their achievements over the last year.
11. In particular, Members:
  - a) noted the desktop assessment on cybercrime legislation in the Pacific, developed by the Australian Attorney General's Department, in collaboration with PICP, as a living document and agreed to continue to update this document on an ongoing basis;
  - b) reiterated their commitment to continued collaboration and engagement with PICP-Cyber Safety Pasifika on similar interests regarding cybercrime matters;
  - c) noted to follow up the status of the Cybercrime Needs Assessment Survey that was commissioned by the Pacific Islands Forum Secretariat;
  - d) acknowledged the Working Group's proposed continued engagement with the Commonwealth Secretariat and Council of Europe to support the activities of the Cybercrime working group;
  - e) encouraged members to consider acceding to the Council of Europe's Convention on Cybercrime (Budapest Convention); and
  - f) noted that harmonisation of cybercrime legal frameworks and legislation, developing domestic and international partnerships, and obtaining political commitment at all levels are vital for a successful response to cybercrime.
12. Members endorsed the proposed work plan of the Cybercrime Working Group, including an annual workshop on obtaining electronic evidence by international cooperation; and
13. Members committed to ensuring on-going support for the work of the Cybercrime Working Group.

#### *Environmental Crime and Corruption*

14. Members noted the report from Nauru as the Chair of the Environmental Crime and Corruption Working Group and thanked Nauru and the other Working Group members (Australia, Cook Islands, Federated States of Micronesia, Palau, Republic of the Marshall Islands and Solomon Islands) for their work over the last year, including in particular, the development of draft Guiding Principles for Protecting Whistle Blowers and Encouraging Protected Disclosures.
15. Members agreed that any comments or feedback on these Draft Guiding Principles will be provided to the Working Group no later than 17 November 2017, and that if no further comments are received, the draft Guiding Principles will be taken to have been formally adopted by Members.
16. Members reiterated their commitment to addressing corruption in the region, including the importance of having legal frameworks to encourage greater disclosure of instances of wrongdoing and, in particular, corruption.

17. Members endorsed the forward work programme proposed by the Working Group to further develop the Guiding Principles into a concept paper that specifically identifies the regional context for the Pacific and some concrete examples of provisions that could be used by drafters in the development of protected disclosure laws.
18. Members committed to ensuring on-going support for the work of the Environmental Crime and Corruption Working Group.

### **Expert presentations**

19. Members:

- a) Thanked Mr Morgan Dunn, Senior Solicitor, NZ Ministry for Primary Industries for his presentation on the significant value of electronic evidence in a recent prosecution of illegal fishers in NZ; and
- b) Thanked Ms Olivia Krakosky, Legal Advisor, NZ Ministry of Foreign Affairs and Trade for her presentation on addressing particular challenges that small countries face in adhering to the international law of treaties on how treaties are made under the Vienna Convention on the Law of Treaties.

### **Regional initiatives and updates from Observer Members**

#### *Forum Fisheries Authority*

20. Members:

- a) Thanked Mr James Movick, Director-General of the Pacific Islands Forum Fisheries Agency (FFA) for his presentation on moving towards greater regional maritime domain awareness in the Pacific Islands region;
- b) Noted the importance of illegal, unreported and unregulated (IUU) fishing being addressed as a regional issue, requiring regional collaboration, noting in this context that Pacific Islands Forum Leaders in September 2017 emphasised our shared stewardship of the Pacific Ocean;
- c) Noted the importance of cooperation amongst Pacific Island countries to address IUU fishing and other forms of transnational crime, including information sharing mechanisms, and noted the important role played by the Niue Treaty Multilateral Subsidiary Agreement in this context; and
- d) Agreed to support any future review conducted by the FFA of national laws regarding information sharing, and to work with FFA in its work on Pacific maritime domain awareness.

#### *PILON Litigation Skills Program*

21. Members thanked New Zealand for the ongoing support provided through the PILON Litigation Skills Programme and noted the importance of training in litigation skills for the region and the need for good and qualified lawyers in the region.

### *Legal Policy Capacity Development*

#### 22. Members:

- a) Thanked Australia for the ongoing support provided through the Legal Policy Twinning Program, Legal Policy Champions Program and Pacific Legal Policy Network to develop PILON members' capacity to develop legal policy; and
- b) Noted the focus of the 2017 Legal Policy Twinning Program currently underway is on cybercrime, given the interest of PILON members in progressing cybercrime law reforms.

### *Pacific Legislative Drafters' Forum*

#### 23. Members:

- a) Noted the Pacific Legislative Drafters' Forum meeting outcome statement and that a Legislative Drafters' Training Manual will be circulated to PILON members in November 2017;
- b) Thanked the Pacific Islands Forum Secretariat (PIFS) for its ongoing commitment to providing technical support to the Forum, while noting that it can no longer fund meetings of the Forum;
- c) Reiterated the importance of continuing to support the ongoing development of Pacific legislative drafting capacity;
- d) Supported the creation of the Pacific Legislative Drafters' Forum Steering Committee to drive the future evolution of the Forum and strengthen its networking function; and
- e) Noted that the PILON website would continue to provide an important avenue for members to share legislative drafting resources, such as legislative drafting guidelines and templates, and that the Secretariat will update this resource.

### *Pacific Prosecutors' Association*

24. Members thanked Nauru for the report on the activities of the Pacific Prosecutors' Association and noted that Nauru would continue as Chair of the Association until the next meeting in Vanuatu in April 2018, which will be conjoined to the International Association of Prosecutors annual regional conference, also to be held in Vanuatu.

### *Pacific Islands Chiefs of Police*

#### 25. Members:

- a) Thanked the Pacific Islands Chiefs of Police (PICP) for the written update on its activities;
- b) Noted that illicit drugs (and in particular methamphetamine) has been identified by the Pacific Island Chiefs of Police as the biggest transnational crime threat to Pacific Island countries;
- c) Thanked Australia for the report on collaboration between PILON and PICP over the past year, particularly on the recent stocktake and gap analysis of criminalisation of methamphetamines in the Pacific;
- d) Agreed that, to address the threat of illicit drugs, it is essential that countries have comprehensive illicit drug laws to enable law enforcement action; and

- e) Agreed to use PILON's stocktake and gap analysis report on the criminalisation of methamphetamines as a tool to consider and, if appropriate, progress illicit drugs law reform.

*Asia-Pacific Group on Money Laundering (APGML)*

26. Members:

- a) Thanked APGML for their presentation and welcomed APGML's creation of a new Pacific Section to coordinate technical assistance to Pacific Island countries;
- b) Expressed support for APGML's new Pacific Program (funded by New Zealand) and welcomed APGML's engagement with PILON members to scope the nature of that program; and
- c) Noted that APGML intended to develop model provisions on proliferation of weapons of mass destruction and terrorist financing, building on the legislative reforms already done by Papua New Guinea and Vanuatu on this issue, given that this is an important part of the Financial Action Task Force Recommendations on anti-money laundering and terrorist financing.

*Pacific Islands Forum Secretariat (PIFS)*

27. Members:

- a) Thanked PIFS for its report and update on the changes to PIFS structure and meeting arrangements;
- b) Noted that the Forum Regional Security Committee has been disbanded and that the Foreign Ministers' Meeting (FMM) now encompasses regional security;
- c) Requested that the PILON Secretariat liaise with PIFS to consider how PILON could now contribute to and be consulted on the Pacific Islands Forum's policy agenda and work program under the Framework for Pacific Regionalism; and
- d) Noted that PIFS will consult PILON regarding the development of the 'Biketawa Plus' Declaration dealing with regional security cooperation, the development of which was endorsed by Leaders at the Pacific Islands Forum in September 2017.

*Oceanic Customs Organisation (OCO)*

28. Members thanked the OCO for their update to PILON on recent activities of the OCO and noted the need for harmonisation of customs legislation across the Pacific region.

*Pacific Immigration Directors' Conference (PIDC)*

29. Members thanked the PIDC for their update on the changes taking place to the governance structure of PIDC and PIDC's current work program, and noted PIDC's intention to become an official observer member of PILON at the 2018 PILON annual meeting.

*University of the South Pacific*

30. Members thanked the USP for their update on a pilot program for the training of lay magistrates through a regional Graduate Certificate in Legal Practice, with a view to this becoming widely available in 2019.

## **PILON Secretariat, Governance and Other Issues**

### *PILON Secretariat issues*

#### 31. Members:

- a) Thanked the Secretariat for its report on activities during 2017;
- b) Endorsed the Secretariat's 2018 work plan;
- c) Noted the 2016-17 PILON Activities Financial Report and the 2016-17 Secretariat Operational Financial Report;
- d) Noted the 2017-18 PILON Activities Budget and the 2017-18 Secretariat Operational Budget;
- e) Welcomed the new Assistant Secretariat Coordinator, Ms Violina Leilua;
- f) Thanked the Secretariat for its outstanding work in supporting members over the past year and in particular the heavy demands of supporting a large number of face to face meetings and teleconferences throughout the year; and
- g) Agreed that the Executive Committee should develop and implement a PILON travel policy, designed to address the issue of participants occasionally failing to attend PILON events without a reasonable explanation, resulting in PILON incurring unnecessary costs associated with their travel.

### *PILON Governance issues*

#### 32. Members:

- a) Noted that the current PILON Strategic Plan will expire at the next PILON Annual Meeting in 2018 and the three current areas of strategic priority – Cybercrime, Sexual and Gender Based Violence and Environmental Crime and Corruption continue to be of importance to the region;
- b) Agreed that each PILON Working Group would consider what work on their current strategic priority, if any, could usefully be undertaken by the Working Group beyond 2018, and if so, outline what that work could consist of going forward, and provide a report to the Secretariat regarding these issues by the end of February 2018; and
- c) Agreed that the Executive Committee would work with the Secretariat, in consultation with Members, to prepare a draft PILON Strategic Plan for consideration at the 2018 PILON annual meeting, taking into account the discussion at the annual meeting;

33. Members agreed that the Executive Committee, in consultation with Members, would build on the work done by Australia to develop draft amendments to the PILON Charter and Rules of Procedure, taking into account the comments made by Members during the meeting, so that Members could consider any proposed amendments to the PILON Charter and Rules of Procedure at the 2018 PILON Annual Meeting.

### *Applications for membership*

34. Members approved the application of American Samoa as a Member of PILON. Members requested the PILON Secretariat to convey to American Samoa Members' pleasure at their inclusion in PILON and their desire that American Samoa actively engage in PILON's strategic priority agenda, including meeting attendance, and strongly encourage American Samoa to attend PILON's 2018 annual meeting.

### *PacLII funding*

35. Members reiterated its decision in 2016:

- a) Noting the importance of PacLII as a regional legal resource and noted that it is an essential resource for both private and public sector Pacific lawyers to engage in legal practice;
- b) Agreeing in principle to support PacLII's request for financial support, upon the receipt of a detailed funding proposal from PacLII.

36. Members:

- a) Agreed that the Secretariat would write a letter in support of PacLII, within the next two months, to assist in PacLII's fundraising efforts; and
- b) Agreed that the Executive Committee would consider, in consultation with members, PILON's nominee to the External Advisory Board of PacLII.

### **PILON Secondment Program**

37. Members:

- a) Thanked Australia for its report on the PILON Secondment Program, which allows legal staff to conduct a 2-3 month placement with other Members to progress a key law and justice project;
- b) Noted that to date no applications for this Program had been received and funding would likely be discontinued if no applications were received in 2018; and
- c) Noted that a similar programme may be available through the IAP and the Commonwealth Secretariat.

### **Planning for 2018**

38. Members:

- a) Welcomed and accepted the offer of the Cook Islands to host the 2018 PILON Annual Meeting.
- b) Agreed that the Executive Committee will consist of the Republic of the Marshall Islands (Chair), the Cook Islands (Incoming Chair), Australia, the Federated States of Micronesia, New Zealand, Nauru and Samoa;
- c) Thanked the Solomon Islands for their generous service to the Executive Committee.
- d) Thanked the Republic of the Marshall Islands for hosting the 2017 annual meeting and their very generous hospitality.