



## SGBV WORKING GROUP VIRTUAL MEETING

# MINUTES

**Friday 26 March 2021**

**Welcome:** (Chair – Savalenoa Mareva Betham-Annandale- Chair SGBV Working Group and AG Samoa)

**Present and apologies:**

- i. Charlotte Brooks – Deputy Solicitor General-Criminal, New Zealand
- ii. Jo Mildenhall – Senior Crown Law Officer, New Zealand
- iii. Justin Kamupala – Solicitor General Niue
- iv. Ronald Talasasa, Director Public Prosecution, Nauru
- v. Lisa Williams – Crown Law Officer, Cook Islands
- vi. Dana Esperanza - Senior Policy Officer, Australia
- vii. Jana Epati – Crown Law Officer, Cook Islands
- viii. Margaret Suifa’asia – Chief Legal Officer, Solomon Islands
- ix. Jesse Mihkel - Assistant Attorney General, FSM
- x. Steffany Meredith – Senior Legislative Drafter, Samoa
- xi. Josephine Pitmur - Acting Secretary – Legal Policy and Governance Branch, PNG
- xii. Sasae Walter – Coordinator, PILON
- xiii. Rosy Fogatia – Assistant Coordinator, PILON

**Agenda item 3.1 – Matters for discussion:**

- SGBV WG meeting minutes of 24 September 2020 were approved.
- Group discussion – Model Provisions (MP) (explanatory text)
  - The Secretariat informed members that the explanatory texts for the MP were tabled in last Annual meeting in 2020. Members were reminded to revisit the explanatory materials and advise if there are any further improvements to be made. The Secretariat also informed members that they can provide comments on the explanatory texts for other sections that they were not allocated. These final comments from members will be added onto a second version of the MP explanatory text booklet.
  - Chair also reminded members to send in any comments/information/views on the MP itself, like any particular section they may have an opinion on. Members are also invited to share any lessons, surprises, challenges and implementation experiences of the Model Provisions.

Action:

Secretariat to send out an email to members of the WG to send in feedback/ comments on the explanatory texts for Special Measures.

- Current status and next steps – Potential 2021 SGBV Work Activities
- Videos to share positive experiences of dealing with vulnerable witnesses

DE of AGD informed members on her background, she's worked for the AGD for about 8 years, and recently moved to the AGD Pacific Section. She is very familiar with the work because of previous experiences, and have worked on gender equality and gender-based violence for about 10-15 years. She also worked extensively in Australia and internationally in the likes of the UK, US, Cambodia and Nauru. Some of her previous work before joining the Australian Government was Aid and Development in the Pacific and South East Asia.

DE informed members that her main principles is to be guided by the WG, what does the group want, what the WG think is the real need, and what will add value for everyone and their respective countries.

- Online engagement e.g. webinars and training

DE explained that from the 2020 Annual Meeting, a couple of priorities were discussed and one of them was around webinars and online engagements and dealing with the covid 19 situation, supporting victims of sexual violence, but the particular item that was raised more interest last year was producing videos. This is to capture positive experiences from around the region about how they've dealt with vulnerable witnesses. This is a different kind of online engagement, it's a different way of capturing those stories and what's worked on the ground. Some examples could include enhancing access to information for victims through the use of leaflets, websites, services or counselling, through some form of mediation, restorative justice, it could be practical support especially when victims are very distressed and the process is very confusing. The videos could capture success stories about how countries have supported victims with travel, physical security, emotional support, practical information or it could be improved staff training that is relevant to vulnerable witnesses, and many more.

DE further explained to members to sending in their ideas, on what worked very well for them, and to focus on the positive experiences. The Secretariat will work on these ideas in developing some questions, help in organising some short interviews, and will record and edit the videos and then upload it on the PILON website.

Chair thanked DE and she commended her work on policy and how much this experience will benefit the WG and the members as well.

Chair also commented on the video issue, she supported the sharing of experiences through video. She also mentioned that this is one area that is very helpful for our respective countries to share on how they see a most effective tool that will help victims understand and also appreciate the kind of assistance that is out there for them. She made reference to Samoa, court system, in the last 2 years, where the courts have been more supportive of victims. She also mentioned the Samoa Victim Support Group (SVSG) who are very active and visible in court, as they support the victim as they appear in court. In this respect, for Samoa, engaging the SVSG and involve the victims to share their experiences on how they've been through court, and what if there are any other services, needed to provide through assisting them as they appear in court and also taking away the sense of having to live through the experience when they're giving their evidence, is something that is very needed at the moment.

Chair also informed members that with Covid-19, people are not meeting up, so it's important to share these stories on videos, on the internet through FB pages and sharing them as well through our network.

JM NZ support the video idea and added that it adds value when these experiences are shared on these videos.

JE of the Cook Islands (CI) supported the idea of having videos. She mentioned that the CI has just finished a trial on sexual assault and they were able to have the complainant/victim give evidence via zoom and she didn't need to be part of the proceedings. They're happy to share this successful story via email. The fact that they don't have the provisions in their Evidence Act, but they were able to bring in measures to help the victim give evidence in a comfortable setting.

JP from PNG also supported this great idea. However, she did share that it is also important to share in the videos the stories relevant to the perpetrators.

MS (comments sent via email)

MS mentioned that they have had their first experience with a case involving a child witness who gave evidence through video link or video conference last month. The High Court set up video conference facilities in response to the COVID-19 pandemic situation, to ensure that the Judiciary and the Courts can function remotely. The video conference was successful, the child witness was placed in a separate room and gave her evidence through video link. This was in the actual trial and not in the pre-trial stage as in the Model provision. ME shared that they will now be using the audio- visuals to present evidence of children under 18 years and complainants with disabilities.

MS supported the Model Provision for audio-visual recording for presenting evidence of vulnerable victims at pre-trial hearing and supports it as a good law. She feels that it will swiftly deal with sexual violence cases especially involving young children.

MS also shared that in the Solomon Islands they have prevalent cases involving children as young as 3, 5, 6 and older. The cases sadly do not go to trial until 3 to 4 years down the lane. In effect, by the time the cases are called up for Trial, the parents of the children often want to withdraw the case, or the children would have forgotten much of the details of their evidence. MS believed that the sexual offence cases should be prioritised in Courts. It would help if there was some kind of policy or procedure setting out timelines to swiftly deal with these cases.

JM of FSM informed members that FSM support this idea. He explained that their office can only do so much on the adoption of special measures in dealing with vulnerable witnesses. JM mentioned that there are only 2 avenues in which special measures can be put in place, and that is, the passing of legislation in FSM congress and the adoption of court rules to put these measures in place. JM agreed that they share these good practices either from congress or the court.

Niue (sent his comments on email because of his audio problems)

- JK of Niue, supports the proposed initiative pertaining to videotaping our stories and experiences, and believes that this is a good initiative. However he stated that their experiences with such matters is somewhat limited here. So he advised that they may not be in a position to share or add much to the overall conversation, but listening and learning of the experiences of other small jurisdictions would be helpful for them. Prosecutorial Guidelines to support sexual assault cases

JM informed members that NZ have developed a guideline for Sexual violence prosecution. They're happy to participate in a video and discuss what it was like for NZ as they put these provisions into effect.

**Other Matters:**

- a. JM asked if the Webinar on NZ Guidelines for Sexual violence offences prosecution is tied on to the videos and if so, they are happy to do either or both. The chair responded that it's a very useful webinar to have on that particular topic.

Action:

The Secretariat to liaise with NZ on these matters and to report back to the next WG virtual meeting.

- b. RT of Nauru advised and commented on the recording of the interview and he's not sure on how long it will take for members to go onto audio visual recording. He then shared Nauru's experiences on manual recording that is still used up today. He mentioned that what has come up as an issue in Nauru, is the child offender being interviewed by the Police, the child speaks Nauruan, the Police interviews is recorded in English, and the translations is done simultaneously by the recording officer in Nauruan. The 2 issues here, is the language used in Nauru for sexual intercourse have to be understood by the juvenile and should be reflected in the record of interviewing in the Nauruan translation. The critical point is the translation of the word in Nauruan for sexual intercourse. It's important that the juvenile understand that word in English.

Another issue, is an Kiribati accused, being interviewed by an Ikiribati speaker, the interview is recorded in English and Kiribati, and the records kept only in English and Nauruan. RB mentioned that what the Police in Nauru are doing now is that the entire interview is to be conducted in Nauruan and the English translation can be done later. There are difficulties by some Nauruan speakers (Police officer) in interpreting these words in English because of some words being used descriptively. He suggested to add manual recording because some countries like Nauru are still using manual recording.

Chair also shared similar experiences in Samoa where the translation of an interview of a vulnerable victim or the vulnerable defendant/juvenile by the Police, is conducted in Samoan and the translations of this interview is in English, this may not necessarily capture the correct or the accurate explanation of the victim or of the defendant. She agreed that we do have issues on using of appropriate language or usage of appropriate terminology that capture the correct term for the activity that is considered an offence. Samoa can share in a video on how the prosecutors have been able to overcome some of the language barriers but the correct terminology to be used.

Action:

Members are to liaise with the Secretariat on any comments/feedback on the above matters and to send their views to the Secretariat for discussion in next WG meeting.

Next meeting: Friday 25 June 2021 TBC

***Minutes approved by working group: 20<sup>th</sup> August 2021***