



## Attachment C

### PILON COUNTRY REPORT TEMPLATE

#### SOLOMON ISLANDS COUNTRY REPORT:

##### **1. Major law and justice sector developments and achievements**

[Countries are encouraged to report on recent developments and achievements in the law and justice sector (e.g. establishment of a new court).]

1. In response to community transmission of the delta variant of covid-19 in neighbouring Pacific counties, the government of Solomon Islands extended the state of emergency every 4 months, to ensure that the nation and people are protected from the deadly delta variant of covid-19.
2. The government continued to enact **Regulations to close borders, restrict flight, ship and people's movements and put measures in place to protect people.**
3. Draft of the **Public Health Emergency Bill 2021**, (an Acts to provide for protecting, controlling, preventing from and responding to local, national and international outbreaks and spread of disease, contamination and other occurrences that threaten public health, and for related purposes), was submitted to Bills and Legislation Committee of the National Parliament in the first quarter of this year. In May, the Committee commenced an inquiry into the Bill, pursuant to Part 71(b), of the Standing Orders of the National Parliament of Solomon Islands. In its inquiry the Committee sought public views on the three main areas in the Bill- the policy issues surrounding the Bill, implementation of the Bill and the purported encroachment on the basic rights and the Constitution. The Bill was expected to be passed by Parliament in December 2021 but that did not happen. It is not likely that it will be passed by December 2021.
4. In response to the challenges posed by the use of unregistered sim cards, misuse of internet, increase in cyber based crimes and inability of security operatives to detect perpetrators of internet crimes, the government presented the **Telecommunication (Amendment) Bill 2021, no 3 of 2021** to the Bills and Legislative National Parliament. The Bills and Legislative Committee conducted

public hearings in July and August and submitted a report to the National Parliament. The Bill has not been passed by the National Parliament.

5. In response to the national plan on increased access to justice for Solomon Islanders the Magistrates and High courts **increased the number of court circuits to all Provinces and remote areas in Solomon Islands without exception.** The Magistrates court is covering all Provinces while the High Court is covering four Provincial headquarters. The Magistrates courts adjudicate over criminal, civil and customary land matters while the High court covers only criminal matters.
6. The Magistrates courts **introduced virtual hearings in criminal cases** in the second quarter of this year. **The court High court continue to hear criminal cases virtually, particularly receiving the evidence of children and other vulnerable witnesses in sexual assault matter.**
7. The **Office of the Ombudsman of Solomon Islands commemorated its 40<sup>th</sup> anniversary in June 2021.** The occasion was marked with a one day conference titled **Giving Fairness where it is due.** The office show cased literature designed to educate the public on the roles of the Ombudsman, speeches on the Ombudsman and the Public Administration oversight in the Solomon Islands, the beneficiaries of justice, the Ombudsman and the organs of the state. The occasion was a timely reminder to the people of Solomon Islands of the existence of the office of the Ombudsman and the roles of the office.
8. **A chairman was appointed for the Solomon Islands Law reform Commission** in October. The post had been vacant for about 3 years. There are many legislations needing reforms.

## **2. Significant court decisions**

[Countries are encouraged to report on recent court decisions which may be of interest to members.]

### **DENNIS MITORO v R [2021] SBHC 84; HCSI-CRC 01 of 2021 (30 June 2021) HIGH COURT OF SOLOMON ISLANDS.**

Following the enactment of Emergency Powers (Covid-19) (Restriction of Movement of Persons in Honiara) (No. 2), 2020, the Prime Minister ordered a lockdown to be enforced within the Honiara Emergency zone from Poha River to Alligator Creek, from 20 May 2020 to 22 May 2020. On the 20<sup>th</sup> of May 2020, at about 8:00pm, two male persons were seen walking at the Tanuli Ridge public road, Central Honiara. The Police Operational duty saw them and arrested them. Each of the two accused was charged with 1 count of Restriction of Movement

contrary to Paragraph 4 (1) (a) and (b) of the Emergency Powers (COVID-19) (Restriction of Movement of Persons in Honiara) (No. 2) Order 2020, as read with Regulation 11 (1), (2) (a) (b) and (c) and (3) of the Emergency Powers (COVID-19) (No. 2) Regulations 2020. One of the two men took the matter to the High Court for a declaration on whether or not the Emergency Powers (COVID-19) (Restriction of Movement of Persons in Honiara) (No. 2) Order 2020 was lawful.

At the hearing of this referral, in the High Court, the applicant sought redress under section 18 (1) of the Constitution. It was argued on behalf of the applicant that a declaration must issue in his favour to the effect that regulation 4 (1) (a) and (b) of the Emergency Powers (COVID-19) (Restriction of Movement of Persons in Honiara) (No. 2) is unconstitutional and invalid. It was further argued on behalf of the Applicant that the restriction order under regulation 4 (1) (a) and (b) of the Emergency Powers (COVID-19) (Restriction of Movement of Persons in Honiara) (No. 2) Order 2020 as read with Regulation 11 (1), (2) (a), (b) and (c) and (3) of the Emergency Powers (COVID-19) (No. 2) Regulations 2020 contravenes the applicant's right of movement under section 14 (1) of the Constitution and should be declared unconstitutional and invalid. The Applicant further argued the May 2020 lockdown was not reasonably justifiable because there was no positive COVID-19 case in the country at the material time.

On the contrary the Respondent argued that the said lockdown was reasonably justifiable on the basis that it allows the government to test the country's preparedness in responding to a confirmed case of COVID-19 in the country and it would allow the law enforcement agencies to test their ability to maintain law and order in a lockdown situation.

In her judgment, the Judge took into account the position taken by the International Covenant on Civil and Political Rights, a multinational Treaty that came into force on the 23 March 1976. Article 12 of that Treaty talks about freedom of movement. Article 12 also talks about exceptional circumstances in which rights of movement may be restricted. Article 12 noted that it is not sufficient that the restrictions serve the permissible purposes. They must also be necessary to protect them. On that basis restrictive measures must conform to the principle of proportionality, they must be appropriate to achieve their protective function and they must be the least intrusive

instrument amongst those which might achieve the desired result and they must be proportionate to the interest to be protected. The Judge stated that taking a clue from the International Covenant, it would be obvious that in cases of restriction of movement on persons, the test of necessity and the requirement of proportionality must be observed.

She considered the issue of necessity and stated it is a fact that about 11 March 2020, there was a declaration by the WHO that COVID-19 was a global pandemic. Nations around the globe were warned to be proactive in the prevention of the virus entering their borders. Our government should be commended for its tireless efforts to keep the virus at the border. So far there has been no community transmission of the virus in the country. Apart from making sure the virus does not cross the border, the government must also show its preparedness to deal with a situation whereby there is community transmission of the virus in the country. That in my view was the purpose of the May 2020 lockdown. The government was proactive in their efforts in preparing for and putting in place plans and measures on how to respond to a health emergency. Owing to the above it was therefore necessary for the Prime Minister to make an order for restriction of movement of persons from 6.00 o'clock in the evening of 20 May 2020 to 6.00 in the morning of 22 May 2020. She held that the Prime Minister was reasonably justifiable to make the restriction orders in May 2020.

She also considered the issue of proportionality and stated that in order for the restriction order to be reasonably justifiable the principle of proportionality must be observed. The May 2020 lockdown has a fixed period of 36 hours. There was no community transmission of COVID-19 in the country then but it had allowed front-line workers to be properly prepared for an emergency and it had also allowed relevant authorities to become aware of and to correct any deficiencies in their operating procedures. She held "I am therefore of the view that the 36 hours lockdown from 6.00 o'clock in the evening of 20 May 2020 to 6.00 in the morning of 22 May 2020 was proportionate to the purpose for which it was created".

The Court made the final orders that "paragraph 4 (1) (a) and (b) of the Emergency Powers (COVID-19) (Restriction of Movement of Persons in Honiara) (No. 2) Order

2020 as read with Regulation 11 (1), (2) (a), (b) and (c) and (3) of the Emergency Powers (COVID-19) (No. 2) Regulations 2020 are constitutionally sound and valid.

The substantive matter is referred back to the Magistrate Court for disposal by the said court.”

### 3. PILON strategic priorities

[Countries are encouraged to provide an update in relation to the three PILON strategic priorities, on relevant domestic developments (introduction or amendment of legislation, significant court decisions, policies or practices introduced, institutions established), challenges faced, or other observations.]

[Please indicate whether any PILON activities or resources (listed below) are relevant for your jurisdiction and whether they have been used, or are intended to be implemented in the future and what further support might be needed.]

#### (a) **Cybercrime**

1. The government introduced **the Telecommunication (Amendment) Bill No 7 of 2021** to the National Parliament. It is an Act to ensure all sim cards are registered. The Act responds to increasing irresponsible /misuse of internet and increase in internet based crimes.
2. **Solomon Islands Cybersecurity Bill did not progress this year.** The attention of the Ministry that has responsibility for the Bill shifted to the Telecommunication (Amendment) Bill 2021. The Cyber security Working Group met thrice this year to deliberate on the Telecommunication (Amendment) Bill.

#### (b) **Corruption**

1. **The Solomon Islands Independent Commission Against Corruption appointed the first Director General of the Commission.** The Commission’s office is now fully established. Support staff have been recruited. Recruitment of lawyers and Investigators is underway.
2. **The government introduced the Transparency and Accountability Project (TAP) for Solomon Islands.** The TAP project is in direct alignment and continuation of the anti-corruption work of UNDP global and regional Pacific project funded by the Australian Department for Foreign Affairs and Trade (DFAT). TAP is co-financed by the government of Solomon Islands and bilateral and multilateral partners. The outcome of TAP is to strengthen the government of Solomon Islands to contribute to decrease the climate of impunity, ensure public resources are protected and services delivered to communities with minimum leakages and ensure beneficiaries are given a voice in how such resources are disbursed and empowered to hold officials

accountable for the proper management, collection and distribution of the resources in a fair and equitable manner.

- 3. In August 2021, UNDP introduced its new complementary regional anti-corruption initiative undertaken by the UNDP Pacific Office and their office in Solomon Islands.** The goal of the new UNDP Pacific regional anti-corruption project is to strengthen anti-corruption measures and institutional capacities to prevent and fight corruption more efficiently and effectively in the Pacific region. It is funded by the UK Government. One of the key areas of focus of the new project is to contribute in strengthening the capacities of the criminal justice system and other institutions in the Pacific (prosecution, judiciary, financial intelligence units etc) to better detect, investigate and prosecute cases regarding misuse of public money and related financial crimes. UNDP in Solomon Islands is working with UNDP Pacific colleagues, and the UNDP Anti-Corruption Adviser for training and capacity building activities to provide human and institutional capacity-building needs on investigation and prosecution of cases regarding misuse of public moneys and related financial crimes; and supporting development of manuals, rules of procedures, bench books for Solomon Islands Prosecutors, Investigators, the Magistracy and Judiciary and advancing sub-regional/regional cooperation on AML/CFT issues.

### **(c) Sexual and Gender-Based Violence**

1. The High court and Magistrates court have **introduced virtual hearings to obtain the evidence of children and other vulnerable witnesses in sex and gender based crimes.** The special measure is to avoid contact between complainants /witnesses and defendants, to enable witnesses give evidence in a safe and conducive environment thereby reducing the stress of giving evidence in court.
2. The Office of the Director of Public Prosecutions supported a Prosecutor in a twinning program with AGDs Pacific Section International Cooperation Unit, to produce **Guidelines for Prosecutors and Witness Support Officers for family & sexual offence matters.** The Guidelines is a step by step approach to support witnesses throughout the prosecution of sexual offences. It contains six attachments- PILON's General Principles for obtaining best evidence from vulnerable witnesses in sexual and gender based violence matters, Key events triggering contact with witnesses, Witness vulnerability risk assessment, Case flow in Solomon Islands Magistrates court, Case flow in Solomon Islands High court, Victim Impact statements and Victim Impact statements for vulnerable witnesses.
3. The office of the Director of Public Prosecutions produced **Policy on the prosecution of sexual offences.** The Policy took effect on 14 August and will be published and launched at the **Prosecutors Conference 2021, on 26 November 2021.**

**4. The Office of the Director of Public Prosecutions and the Police Prosecutions Directorate will hold the first Prosecutors Conference from 24-26 November at Heritage Park, Honiara.** The theme of the conference is **“The Evolving Role of the Prosecutor: The Prosecutor & Vulnerable People”**. Speakers from New Zealand Crown law office, the Australia Capital Territory Director of Public Prosecutions Office, Academics/Researchers and local experts in the field of the conference theme will be facilitating sessions virtually during the three days conference.

5. A short term adviser **completed a review of the Solomon Islands Family Protection Act.** The report of the review was accepted and endorsed by the Ministry of Justice and Legal Affairs.

**6. The Ministry of Justice and Legal Affairs launched its Gender and Social Inclusion (GESI) Step by Step, three year strategy for advancing gender equality and social inclusion in the Solomon Islands Justice sector.** The ministry is now preparing for the implementation of the strategy.

#### **4. Technical legal assistance**

[Countries are encouraged to identify main law and justice training priorities or technical assistance needs, as well as any significant or particularly useful law and justice training or technical assistance that has been provided to the country in the last 12 months.]

##### **Main law and justice training priorities or technical assistance needs**

- 1.** Solomon Islands government lawyers need training in basic, intermediate, advanced and appellate advocacy, statutory interpretation, Legal reasoning, advice writing and administrative law.
- 2.** Solomon Islands government Para-legal officers and Witness coordinators need training in para-legal work, research, communications skills and handling witnesses. Trainings have to be tailored to particular job descriptions.
- 3.** Prosecutors and Defence lawyers need basic training in sign language so as to be able to communicate effectively with deaf and dumb complainants, witnesses and defendants.
- 4.** Investigators needs strengthening to better detect and investigate cases of misuse of public money and other related financial crimes.
- 5.** Prosecutors need training and capacity building activities to prosecute cases of misuse of public moneys and related financial crimes.
- 6.** The Criminal justice system needs support in development of manuals, rules of procedures, bench books for Prosecutors, Investigators, the Magistracy and Judiciary.

7. Prosecutors, judicial officers and Investigators need training in handling vulnerable witnesses and victims of sexual and gender based crimes.

**Technical assistance that has been provided to the country in the last 12 months.**

1. DFAT provided funding for the government of Solomon Islands to engage a Director of Public Prosecutions from October 2020 to December 2021.
2. DFAT provided Advisers to the Magistrates courts, Director of Public Prosecutions office, the Police Prosecutions Office, Public Solicitors' offices, a judge for the High Court, a Legal Draft's person for the Attorney-General's chambers and GESI Adviser for the MJLA from January to December 2021.
3. DFAT and British Overseas Aid, provided funding for virtual court equipment for Provinces- the Magistrates Court, Office of the Director of Public Prosecutions and Public Solicitors Office, in Auki and Gizo.
4. Australia AGD, Australia Government Solicitor, provided trainings on Legal reasoning, advice writing, and Advocacy for Solomon Islands government lawyers.
5. Australia AGD, Commonwealth Director of Public Prosecutions office, provided training on Prosecuting Environmental crimes to the Office of the Solomon Islands Director of Public Prosecutions.
6. Australia Attorney-General's Department, Pacific Section, International Cooperation Unit, provided training on Microsoft Outlook Training, Implementation of Guidelines to the Office of the Solomon Islands Director of Public Prosecutions.
7. Australia Attorney-General's Department, Pacific Section, International Cooperation Unit, admitted a senior Prosecutor to the 2021 Remote Pacific Legal Policy Twinning Program and trained her in Legal Policy, the Prosecutor developed **ODPP Guidelines for Prosecutors and witness support officers**.
8. New Zealand MFAT, provided funding for new office space for the Office of the Director of Public Prosecutions
9. DFAT has committed to furnish the **Pikinini (Children)'s room** in the new office of the Director of Public Prosecutions office.
10. DFAT gifted ODPP and Public Solicitor's office with 10 sets of lawyers' robes.
11. DFAT provided funding for Charge Screening Process Book developed by the Office of the Director of Public Prosecutions and Police Prosecutions Directorate.
12. DFAT through UNDP is funding the Access to Justice Program, with particular attention on the Public Solicitors' office.

## 5. Contact information for key law and justice agencies

[Including but not limited to: Attorney General’s Office, Ministry of Justice, Directors of Public Prosecutions, Crown Law Office, Courts, Law Reform Commission, People’s Lawyer, Office of Parliamentary Counsel, etc.]

Agency	Key responsibilities	Contact person and position	Phone number and email
Attorney-General’s Chambers	Chief legal adviser to the government	Mr. John Muria Junior	<a href="mailto:jm@attorneygenerals.gov.sb">jm@attorneygenerals.gov.sb</a>
Director of Public Prosecutions	Chief Prosecutor	Mrs. Rachel Olutimayin	<a href="mailto:ROlutimayin@dpp.gov.sb">ROlutimayin@dpp.gov.sb</a>
Director of Public Prosecutions	Deputy Chief Prosecutor	Mr. Andrew Kelesi	<a href="mailto:AKelesi@dpp.gov.sb">AKelesi@dpp.gov.sb</a>