

PACIFIC ISLANDS LAW OFFICERS' NETWORK 2012

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I. INTRODUCTION

The Pacific Islands Law Officers' Network (PILON) is a network of senior government law officers from Pacific island countries. The PILON membership is made up of 17 member countries, with ten regional organisations as observer members.¹

PILON provides a forum for addressing law and justice issues common to countries within the Pacific region. PILON aims to enhance communication and cooperation between law officers in the Pacific region, to discuss and progress these issues at a regional level.

The key forum for the Network is the PILON Annual Meeting, which has been held since 1981. This provides Members with an opportunity to discuss relevant regional law and justice issues, share information about significant legal developments, and establish action based outcomes and decisions as a result of meeting discussions. The annual Work Plan for the PILON Secretariat is developed by Members at the Annual Meeting, reflecting the agreed outcomes and identified priorities for PILON.

II. 31ST PILON ANNUAL MEETING

The 31st Annual Meeting of PILON was hosted by the Papua New Guinea Department of Justice and the Attorney General (DJAG) and held in Kokopo, East New Britain, from 29-31 October 2012.

Fifteen member countries were represented, together with several observer members and other relevant regional organisations in attendance as additional meeting observers.

The theme of the meeting was "Challenges and Strategies to Enhance Democratic Governance and the Rule of Law." Meeting attendees considered presentations and participated in discussion focused on this theme. The meeting agenda also encompassed consideration of PILON administrative

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1 Member countries are Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Pitcairn Islands, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Observer members are the Commonwealth Secretariat, the International Committee of the Red Cross, the Pacific Islands Forum Fisheries Agency, the Pacific Islands Forum Secretariat, the Pacific Islands Legal Information Institute, the Pacific International Maritime Law Association, the Pacific Regional Environment Programme, the Secretariat of the Pacific Community the University of the South Pacific and the United Nations Office on Drugs and Crime.

matters (such as future funding sources and legal structure of the Network), updates regarding other regional issues and initiatives, country reports provided by members and the 2013 PILON work plan.

III. CHALLENGES AND STRATEGIES TO ENHANCE DEMOCRATIC GOVERNANCE AND THE RULE OF LAW

The theme of the 31st PILON Meeting was explored through presentations focusing on issues which included challenges to, and the role of government lawyers in enhancing, democratic governance and the rule of law; leadership and good governance, and threats to this posed by corruption and disregard for the rule of law; and practical anti-corruption strategies (such as processes under the United Nations Convention against Corruption and anti-money laundering measures).

Presentations were provided by several speakers with current or recent experience in the law and justice sector in Papua New Guinea, who were able to provide significant insight into and draw on relevant examples from this context. The Hon Kerenga Kua, Minister for Justice and the Attorney-General of PNG, provided an opening address highlighting the importance of the meeting's theme for PNG (given the impact of recent political instability on the rule of law and democratic governance; and the challenges posed by corruption), the importance of accountability for democratic governance, and the essential role played by government lawyers in upholding and strengthening the rule of law. Presentations were also provided by Professor John Nonggor (constitutional lawyer and private practitioner in PNG), the Hon Maurice Sheehan (former Judge, PNG National Court) and Mr John Toguata (Development Practitioner (Anti-Corruption), PNG-Australia Law & Justice Partnership).

Following the presentations, members participated in substantial discussion drawing on the perspective of government lawyers in relation to the issues surrounding the rule of law and democratic governance explored by the meeting theme.²

The outcomes of these discussions were formally recorded in a communiqué concluded by members, and annexed at the end of this meeting note.

IV. PILON DEVELOPMENTS

As part of the Annual Meeting, PILON member countries present a Country Report providing an update on domestic law and justice policy and developments over the preceding year.³ At the 2013 Annual Meeting,

2 See *Pacific Islands Law Officers' Network 31st Annual Meeting Outcomes Report*, available at <www.pilonsec.org>.

3 Country Reports are available at <www.pilonsec.org>.

the Country Reports included a report on progress in relation to legislative responses to the issue of violence against women, following agreement by members in 2010 that this would be included in future reports.

Legislative drafting was given significant consideration as part of meeting discussions of regional initiatives and issues. Members were provided an update regarding the 2012 Pacific Legislative Drafters' Technical Forum meeting, hosted by the Pacific Islands Forum Secretariat. Members agreed to support the national and regional strategies outlined in *Regional Action Plan for Sustainable Legislative Drafting Capacity Building* developed as an outcome of the Technical Forum meeting. As part of this, it was agreed that legislative drafting issues will be a standing item on the agenda for future PILON Annual Meetings. A presentation was also provided focusing on development assistance in legislative drafting. Members discussed concerns in relation to some forms of drafting assistance, and the need for development assistance partners to recognise that legislative drafting should be undertaken by professional specialist legislative drafters.

A significant outcome of the 31st Annual Meeting was agreement by members to a Strategic Plan for PILON.⁴ This is the first Strategic Plan for the Network, and it provides a framework for PILON's development and activities for 2013 and 2014. The Plan establishes a Vision for PILON, being: "an active and dynamic network of senior law officers in the Pacific, promoting justice and the rule of law, through regional dialogue and cooperation." The Plan outlines strategies and activities through which PILON's strategic priorities will be implemented. The PILON Secretariat, members, and dedicated Working Groups are all given responsibility for implementation of the Plan.

V. PILON LEGAL POLICY AGENDA

A core component of the Strategic Plan is its definition of PILON's legal policy agenda. This was identified by the Network during development of the Plan as central to achieving its vision, in allowing PILON to actively determine its own agenda and priorities. The Strategic Plan also identifies that definition of a legal policy agenda will assist in communicating a clear perspective from senior law officers on regional legal issues to other regional forums, allow for prioritisation of resources and focus, and encourage identification of regional strategies to address these issues.

At the 31st Annual Meeting, members agreed upon three issues as the priority legal issues for PILON over the Strategic Plan period. The three issues forming PILON's legal policy agenda are:

- corruption and proceeds of crime;
- sexual and gender based violence; and
- illegal fishing.

⁴ The PILON Strategic Plan is available at <www.pilonsec.org>.

The Strategic Plan contains a description of the identified dimensions of each issue and relevance to PILON member countries generally, as well as the aim in focusing on these issues through the PILON Strategic Plan.

During meeting discussions, members considered how the defined legal policy agenda would be pursued. It was agreed that for each priority issue, a Working Group of nominated PILON Members would be formed. The Working Groups will identify and report back to members regarding potential regional approaches or recommended developments in relation to relevant priority issues.

VI. CONCLUSION

The 2013 Annual Meeting will be hosted by the Tongan Attorney-General's Office and held in Nuku'alofa from 5-6 November 2013. The theme of PILON's 32nd Annual Meeting is "Domesticating International Law: Challenges and Best Practices".

**PACIFIC ISLANDS LAW OFFICERS' NETWORK
ANNUAL MEETING 2012**

**'CHALLENGES & STRATEGIES TO ENHANCE
DEMOCRATIC GOVERNANCE AND THE RULE OF LAW'**

COMMUNIQUÉ

The Pacific Islands Law Officers' Network, comprising senior law officer representatives from Australia, Federated States of Micronesia, Fiji, Kiribati, Republic of Nauru, New Zealand, Niue, Papua New Guinea, Pitcairn Islands, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu, meeting in Kokopo, Papua New Guinea, on 29-31 October 2012, communicate the following outcomes of their discussions:

The meeting agreed:

- That it is important for States and their legal systems to support the rule of law, which entails:¹
 - all persons, institutions and entities, public and private, including the State itself, being accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards, and
 - measures being taken to ensure adherence to the principles of supremacy of law, access to the law, equality before the law, judicial independence, accountability to the law, fairness in the application of the law, the separation of powers, participation in decision-making, legal certainty, the avoidance of arbitrariness and procedural and legal transparency.
- That, through the Pacific Island Forum Principles of Good Government and Accountability,² Pacific Island Leaders have committed to respecting and upholding the rule of law.³
- That effective governance and a strong law and justice sector, both of which uphold the rule of law, are essential foundations for strengthened development.
- That Government lawyers play a vital role in promoting the rule of law and effective governance, particularly in relation to ensuring that the Executive is subject to the law and operates within the law.

1 Based on the following definition of the rule of law: United Nations: Secretary-General to the Security Council, UNSC, 2004, S/2004/616,*4, at <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/IJ%20SPRST200434.pdf>.

2 <http://www.forumsec.org/pages.cfm/political-governance-security/good-governance/forum-principles-of-good-leadership-accountability.html>.

3 See also Biketawa Declaration of 2000.

- That an open and vibrant media also plays an important monitoring role in supporting the rule of law and effective governance, by contributing to ensuring that States are subject to effective scrutiny and encouraging them to operate more transparently.

The meeting also noted:

- That strong adherence to the rule of law provides a safeguard against arbitrary governance, corruption and abuse of position
- The threats to effective governance posed by transnational and organised crime and its links to corruption
- The importance of a regional approach to combating transnational and organised crime, including in relation to mutual legal assistance and extradition
- The encouraging development of an increasing number of PILON members ratifying key United Nations transnational and organised crime and corruption instruments, and implementing more effective legal regimes to tackle these issues
- The essential role that an effective anti-money laundering regime plays in tackling corruption and transnational and organised crime, by targeting the profit making motive behind such crimes.

The meeting has reached the following conclusions:

1. Members acknowledge the need to encourage States to ensure that Government legal offices are effectively resourced and supported in their efforts to provide the State with legal services that:
 - uphold the rule of law
 - promote effective, accountable, transparent and responsive governance, and
 - address corruption and transnational and organised crime, as well as other crime.
2. As agreed at the 2010 PILON meeting:
 - (a) There remains a need to improve national and regional responses to combat transnational and organised crime, and members will use best endeavours to improve and update legal frameworks to combat transnational and organised crime and facilitate exchange of information between law enforcement agencies.
 - (b) Members will consider prioritising the ratification of international agreements relating to transnational crime and corruption, where that has not already occurred, including the *United Nations Convention against Corruption* and the *United Nations Convention against Transnational Organised Crime*.
3. Members will also continue to use their best endeavours to implement and refine effective anti-money laundering regimes, acknowledging that they are a key measure for tackling corruption and transnational and organised crime.