



KIRIBATI COUNTRY REPORT

32nd MEETING OF THE PACIFIC ISLANDS LAW OFFICERS' NETWORK

5-6th November 2013

Tonga

**Office of the Attorney-General
Bairiki, Tarawa, Kiribati**

Introduction

This is the report for Kiribati to the 32nd Pacific Islands Law Officers Network (PILON) Annual Meeting to be held in Tonga. The report highlights some of the activities of the Office of the Attorney–General and law sector since the last meeting in Kokopo, Papua New Guinea in 2012. Information on activities and cases can be provided upon request.

1. Outline of structure and governance of the Ministry of Justice (or equivalent) and relevant law and justice agencies

Office of the Attorney – General

The Office of Attorney General is responsible for all criminal, civil cases on behalf of the Government and principal legal advisor to the Government on all legal matters. This includes legislative drafting and policy-making, representation on regional and international issues affecting Kiribati.

The Office composition

The Office is comprised of:

- Honourable Attorney–General
- Solicitor–General
- Director of Public Prosecution
- Fisheries Legal Officer
- 1 Senior State Attorney
- 2 Assistant Senior State Attorneys
- 7 State Attorneys
 - Supporting staff

Office of the People's Lawyer

Similar with the Legal Aid Office in other jurisdictions, the Office of the People's Lawyer was established to provide legal services to the public especially to those who cannot afford legal representation. It is administered by the Judiciary under the supervision of the Chief Justice and Court Registrar, however there is a movement to fully separate the office from the Judiciary.

The office is comprised of:

- 1 people's lawyer (occupied by mostly Australian Volunteer International and has yet to be localised)
- 1 deputy People's lawyer (vacant)

- 3 Assistant People's lawyers
- 3 Paralegals (assists the people's lawyer and handle most of the magistrate court work)
- supporting staff (including 2 interpreter)

2. Major law and justice sector achievements

In the August Parliament sitting, the House of Parliament voted to increase the number of existing Government Ministries from 10 to 11, in order to establish a Ministry for Women. The change in the number of Ministries required a constitutional change and it was supported by 31 Members of Parliament. The setting up of the Ministry of Women, Youth and Social Affairs reflect the government's commitment to tackling issues facing women and Children in Kiribati.

Honourable President Tong also ratified the Convention on the Rights of Persons with Disabilities on 27th September 2013, a day after PNG also ratified the Convention. We look forward to working with PILON Members who have experience in domesticating this international convention and learning from their past experience.

3. Significant court decisions

Tekeang vs Attorney-General iro Ministry of Health and Medical Service [2013] KIHIC 2: High Court civil case 113 of 2010

it is the first time that Government Liability Act of 2010 has been tested in court, the issue revolves around the limitation of action in which limits claims for against the government within one year from which the date such claim arises. The incident occurred on 18 March 2009 and the claim was filed on March 2011, the Government Liability Act was enacted in 2010. The plaintiff claimed that the Act was not retrospective. The court ruled that the limitation contained in section 7 was an alteration and improvement in procedure and therefore is retrospective in effect. The plaintiff's case fails as it is out of time.

Honourable Thomas Iuta (Speaker), Kirata Komwenga (parliamentary Counsel) vs Dr Tetua Taitai [2013] KICA 3: Court Of Appeal Civil appeal 3 of 2013

this is an appeal from the case reported last year in which the Chief Justice had held that the Speaker in wrongly interpreting rule 38(4) of the Rules of procedure resulting in the rejection of the applicant's motion of no confidence and thereby contravening the applicant's constitutional right to move the motion in the House. Appealing from that case, the Court of Appeal held that Speaker was not wrong in interpreting rule 38(4) Rules of Procedure and that the matter was a dead issue. The High Court ruling was set aside.

4. Significant legal reform

(a) Laws

Children, Young People and Family Welfare Act 2013

An act to ensure that children and young people are protected, to ensure support to families in responsibility to raise children and protecting them from violence, abuse, neglect and exploitation. It also serves to incorporate the core principles of Convention on the Rights of the Child (CRC)

State-owned Enterprises Act 2013

The purpose of this act is to bring the corporate disciplines to government controlled business while retaining the ability to provide social services on a formal basis. It also forms an oversight body under the Ministry of Finance to look after the appointment of Director of State-owned Enterprises

Communications Act 2013

the purpose of this act is to implement the Government of Kiribati's policy for the reform of the ICT sector, and to achieve open and competitive communications markets in Kiribati. It sets a new framework for the regulation of communication to promote competition in the market. It is also incorporates a Cyber-crime provision which includes unauthorised access to computer, child pornography and copyright infringements

Tobacco Control Act 2012

The purpose of this act is to control the sale of tobacco, reduce the use of tobacco use. It is also the vehicle to ensuring compliance with the WHO framework convention on Tobacco Control.

(b) Reform activities.

The Domestic Violence Bill has been completed and we are currently working to complete public consultation (including a parliamentary consultation before the December parliament session) and ready for the parliament sitting in December. Awaiting the second reading is the new legislation on Tax and Value Added Tax. The Attorney-General office is currently drafting new laws relating to Occupational Health and Safety laws, Juvenile Justice reform. We will keep PILON updated on the matters.

5. PILON Legal Policy Agenda - Update

(a) **Corruption and Proceeds of Crime**

There hasn't major case involving corruption this year, however there had been a couple of international meeting which has been attended by our office. Proceeds of crime is relatively new to the Prosecutors and more training is required

(b) Sexual and Gender Based Violence

According to a recent survey, Kiribati has a very high occurrence of sexual and gender base violence. With this in mind, elimination of sexual and gender based violence has been made a priority issue by Cabinet. A joint UN 5 year project has been set up to address this issue with a multi-sectoral approach, part of this project is the domestic violence bill called Te Rau Te Mwenga Bill (Family Peace Bill) and an implementation plan to ensure that the Bill when passed will successful.

(c) Illegal Fishing

There hasn't been any criminal prosecution on illegal fishing this year, however it is ongoing concern due to Kiribati's extensive EEZ.

6. Summary of significant issues affecting the law and justice sector (including issues for discussion within PILON) and options to address these issues.

7. Reflect on how the issues outlined in the Country Report relate to the PILON 2013 Annual Meeting theme of "Domesticating International Law: Challenges and Best Practices"

As you can see, many of the new laws passed are mainly dealing with Domesticating International Law, for example the Convention of the Rights of the Child (CRC) and the Children, Young People and Family Welfare Act 2013. There are instances where our office was not involved in the drafting of the domesticating international law which caused alot of uncertainty with the new law, and sometimes there are simply laws without an implementation plan to progress the matter after it becomes law. It is our view that the successful domesticating international needs the involvement of the local drafting officers and offices and a good implementation plan to work on the Act after it passes into law.

Attachment A: Summary of relevant training attended by officers

Date of training	Name of training	Where the training was held and what organisation hosted the training	Who attended the training (name of officer/s and agency)
October – December 2013	Legal Policy	Canberra, Australian AG department	Monoo Mweretaaka (Assistant Senior State Attorney)

November 2013	Professional Diploma in Legal Drafting	Suva, USP	Tewia Tawita, Tumai Timeon, George Mackenzie
March 2013	Local legal drafting workshop with Australian Parliamentary counsel	Tarawa, Kiribati, Conducted by Australian Parliamentary Counsel	All members of the Attorney-General and other government lawyers

Attachment B: Summary of major regional meetings attended

Date of meeting	Name of meeting	Where the meeting was held	Who attended the meeting (name of officer/s and agency)
4-8 March	Asia-Pacific Group Money Laundering workshop, Brisbane	Brisbane	Taburuea Rubetaake
20-27 May	Maritime Boundaries treaty development meeting (SOPAC)	SUVA	Hon Attorney-General
2-13 May	Maritime Security in the Pacific workshop	Wellington	Monoo Mweretaake
May	Human Trafficking training	Nadi	Pauline Beiatau

Attachment C: Contact information for all law and justice agencies

Name of Agency	Contact person and position	Contact phone number and email
Office of Attorney General	Titabu Tabane (Hon. Attorney General) Pauline Beiatau (Director of Public Prosecution) Birimaka Tekanene (Solicitor General)	titabu@legal.gov.ki pauline@legal.gov.ki biri@legal.gov.ki

Judiciary and Office of People's lawyer	Tetiro Semilota (Chief Registrar) Nancy Walker (People's lawyer)	Tetirosemilota@gmail.com Newaquarius7@gmail.com
Law society of Kiribati	Sr Benedette Eberi (President of the Law Society)	Bernadette.eberi@gmail.com