

PILON COUNTRY REPORT 2011

SOLOMON ISLANDS

INTRODUCTION

This report intends to highlight some of the significant activities that have occurred in the justice sector of Solomon Islands both during 2010 – 2011.

In order have a fair knowledge about the justice sector in Solomon Islands; the Report intends to look at the structure and governance of the Ministry of Justice and Legal Affairs, and some agencies within the justice sector.

OUTLINE OF STRUCTURE AND GOVERNANCE OF THE MINISTRY OF JUSTICE & LEGAL AFFAIRS AND RELEVANT LAW AND JUSTICE SECTOR AGENCIES

Brief description of the Ministry of Justice and Legal Affairs

Composition	<ul style="list-style-type: none">• Ministry's Headquarters and Administration headed by a Minister of Justice and Legal Affairs• Attorney-General's Chambers headed by the Attorney General• Office of Director of Public Prosecutions headed by the Director of Public Prosecutions• Office of the Public Solicitor headed by the Public Solicitor• Law Reform Commission headed by the Chairman, Law Reform Commission• Judiciary or the Courts of Solomon Islands, headed by the Chief Justice• Registrar General's Office, headed by the Registrar General
-------------	---

The overall head of the Ministry is the Minister of Justice and Legal Affairs. The Judiciary is the third arm of Government and is headed by the Chief Justice. For administrative and policy matters the abovementioned offices come under the Ministry of Justice and Legal Affairs but perform their functions as mandated by the Constitution and various statutes independently. This is more so for the Judiciary, the Office of the Director of Public Prosecutions and the Office of the Public Solicitor. Ministry Headquarters and Administration deals with matters of government policy and provides administrative and financial support services to the various Ministry agencies.

The Attorney General Chambers provides legal advice and assistance to the Government of Solomon Islands, its Ministers, Ministries and agencies including legal and legislative drafting. The Office of the Director of Public Prosecutions provides prosecution services in the conduct of criminal trials, appeals in

all courts in Solomon Islands and provides legal policy advice The Public Solicitors Office provides legal aid, advice and assistance to those in need of legal advice and legal aid. The Law Reform Commission investigates, undertakes research and reports on references given to the Commission by the Minister of Justice for the reform of laws of Solomon Islands. The Judiciary (or Courts) provide judicial services and justice according to law and interpret laws made by the Parliament of Solomon Islands. The Registrar General's Office formally registers and archives land transactions, foreign births, deaths and marriages, intellectual property, trade unions, bills of sale and also serves as a trustee for deceased's estates.

Acts and Subsidiary legislation administered by the Ministry

Adoption Act 2004 Affiliation, Separation and Maintenance Act (Cap1) Arbitration Act (Cap 2) Bankruptcy Act (Cap 3) Court of Appeal Act (Cap 6) Criminal Procedure Code (Cap 7) Crown Proceedings Act (Cap 8) Death and Fires Inquiry Act (Cap 9) Documentary Evidence Act (Cap 10) Extradition Act (Cap 59) Foreign Judgment (Reciprocal Enforcement) Act (Cap 13) Juvenile Offenders Act (Cap 14) Law Reform Commission Act (Cap 15) Legal Practitioners Act (Cap 16) Limitation Act (Cap 18)	Local Courts Act (Cap 19) Magistrates Court Act (Cap 20) Maintenance Orders (Facilitation for Enforcement) Act (Cap 21) The Money Laundering & Proceeds of Crime Act 2002 Notaries Public Act (Cap 22) Oaths Act (Cap 23) Official Oaths Act (Cap 24) Penal Code (Cap 26) (also the Ministry of Police) Prescription of Judges (High Court) Act (Cap 90) Probation of Offenders Act (Cap 28) Public Solicitor's Act (Cap 30) Islanders Marriage Act (Cap 171) Islanders Divorce Act (Cap 170) High Court (Civil Procedure) Rules 1964
---	--

Management

The Ministry Headquarter is headed by the Minister whose role is defined in the National Constitution of Solomon Islands.¹ The Minister is assisted by the Permanent Secretary and support staff. Each agency is responsible to the Ministry of Justice and Legal Affairs for administrative, financial and policy matters but are independently mandated to perform their functions.

Since June 2010, the governance of the whole justice sector was boosted with the establishment of the 'Justice Sector Consultative Committee' ('JSCC')². JSCC provides a regular forum where the key participants in the justice system can:-

¹ Section 40 of the Constitution

² The Cabinet has endorsed JSCC as the Peak Governance Body for the Justice Sector

- discuss openly current issues of common interest and maintain transparent lines of communications
- consider, comment and, if agreed, provide common support to specific proposals
- agree upon shared strategic directions wherever appropriate and possible
- agree to shared plans of action; and
- provide expert and considered advice, guidance and direction to its members on current justice and related issues, including aid-related matters.

JSCC is chaired by the Chief Justice and members consist of the agency heads or senior officers of the concerned agencies including the Ministry's Permanent Secretary and President of the Solomon Islands Bar Association. The JSCC meets regularly at least once a month. JCSS's last meeting was held on Tuesday 29th November 2011³. Two groups were also formed to support the JSCC. First is the '*Justice Sector Technical Operations Groups*' ('JSTOG') which provides technical and operational support to the JSCC to enable it to fulfill its responsibilities as the Peak Governance Body of the Solomon Islands Justice Sector. Second is the '*Justice Sector Support Group*' ('JSG') whose role is to improve the performance of the support functions of the Justice Sector through strong cross-sectoral relationships by identifying, assessing and resolving cross-sector support issues.

Likewise the governance of the Ministry and its agencies has been enhanced by two newly formed groups. First, is '*Executive Management Committee*' ('EMC') whose role is to formulate creative and strategic policy and advice, to monitor and evaluate the Corporate Plan, to review Ministry performance, to ensure policies and procedures are current, to monitor performance against budget, and to resolve strategic issues. Second, is '*Ministry & Agencies Planning and Reporting Team*' ('MAPART') which coordinates and monitors the implementation of plans across the Ministry of Justice & Legal Affairs Ministry and Agencies.

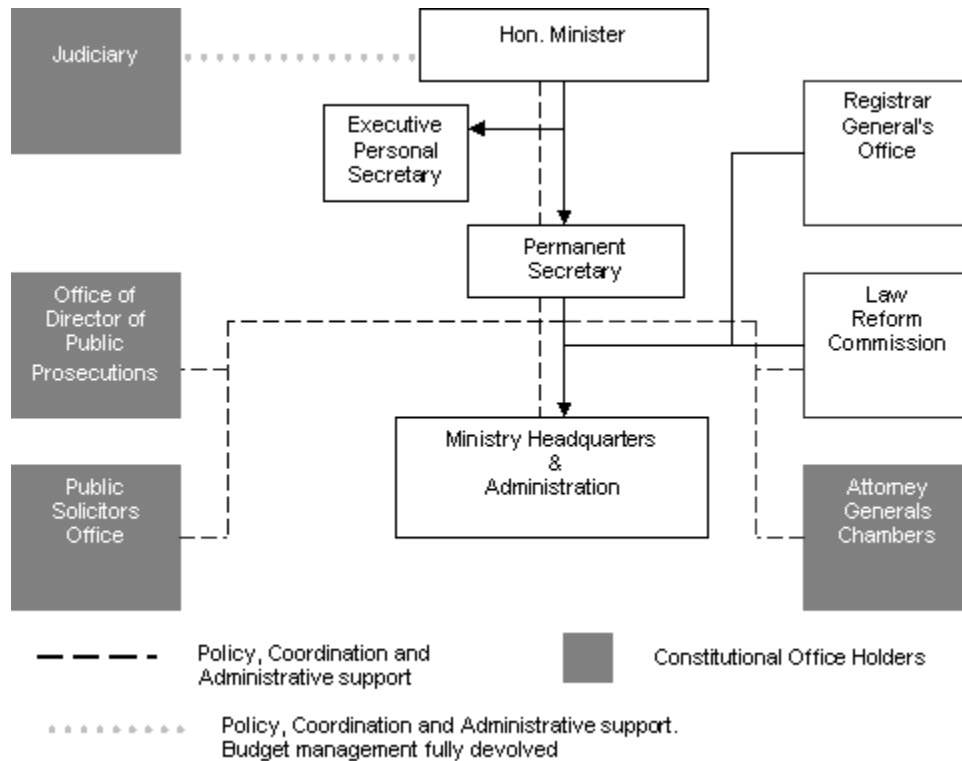
Post Holders at the Ministry of Justice and Legal Affairs as at November 2011

Minister of Justice & Legal Affairs	Hon. Commins Ashton Meewa
Permanent Secretary/Justice	Mr. James Remobatu
Under Secretary/Justice	Mr. Peter Mae
Chief Accountant	Ms. Minnie Ora
Finance Advisor	Mr. Peter Lokay
Chief Infrastructure Officer	Mr. Charles Koroni
Chief Administration Officer	Ms. Christina Tekefome

³ The Minutes of that meeting is yet to be published at the time of this report.

Divisions and Relationship Chart

The chart below shows how the Ministry of Justice and Legal Affairs relates to the different agencies within the Ministry.



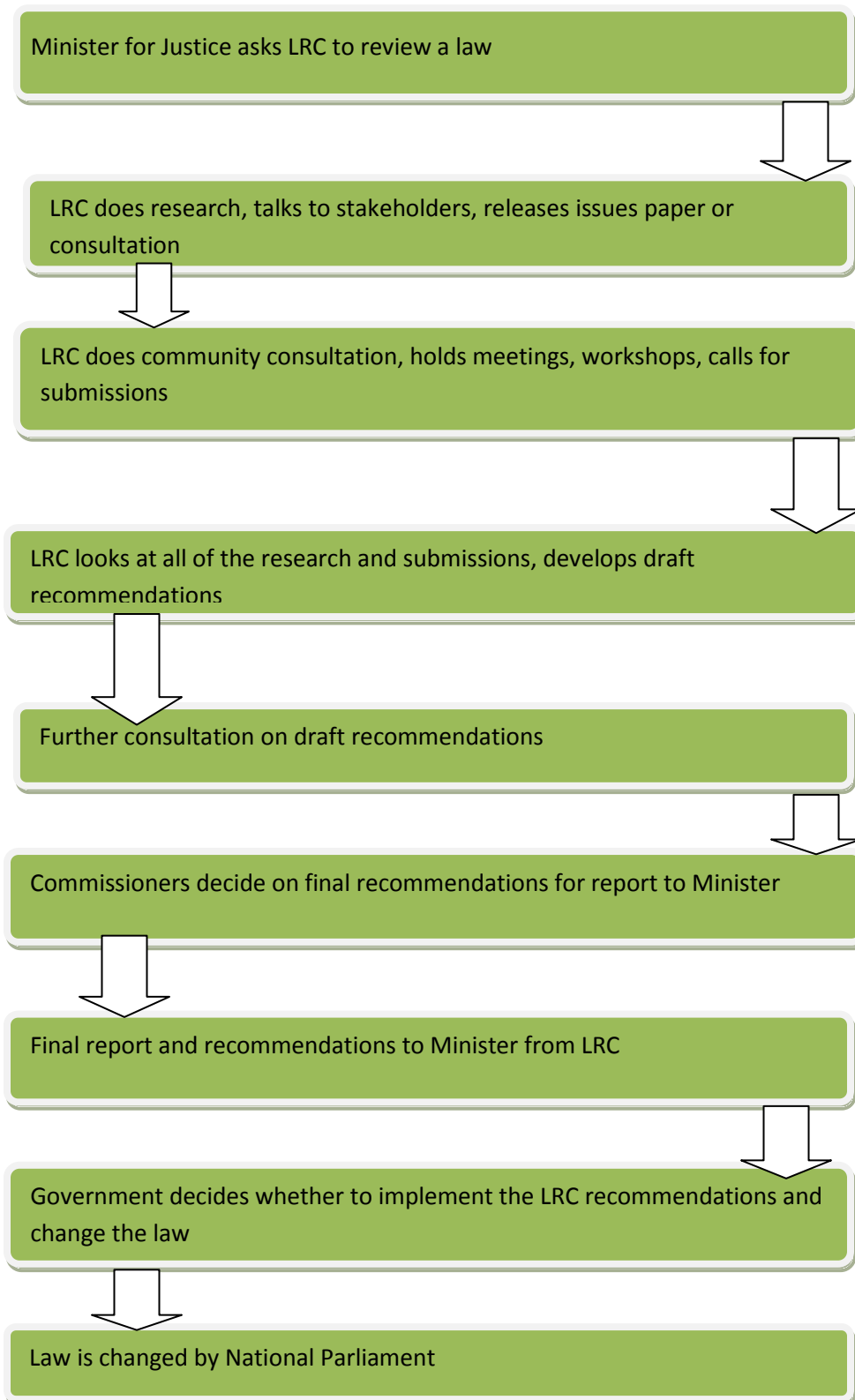
At the agency level, each agency also has its own structure and for the purpose of this Report, this paper looks at the organizational structures and functions only of the following agencies namely: - **Law Reform Commission, Public Solicitor Office** and the **Attorney-General’s Chambers** as examples⁴.

LAW REFORM COMMISSION

The Law Reform Commission (“LRC”) is an independent government agency under the Ministry of Justice and Legal Affairs. It is established by the Law Reform Commission Act 1994. The roles of LRC are to investigate, undertake research and reports on reform of the laws of Solomon Islands as directed by the Minister of Justice & Legal Affairs.

⁴ The organizational structure and functions of the Judiciary and Office of the Director of Public Prosecutions are in the Solomon Islands PILON Country Report 2010

The LRC Law Reform Process



Organizational structure and staffing

LRC ORGANISATIONAL CHART



Community Engagement

- Radio programs on the Penal Code review are broadcasted every Wednesday night at 8 pm
- LRC maintains a website on Paclii.
- Brochures on the current reviews
- Part-taking in awareness and educational activities eg. LRC gave a presentation on the role of the LRC, reform of sexual offences and sentencing for sexual offences in the Guadalcanal Province Training on Gender Based Violence in 2010.
- Part-taking in Law Week

Participation in Ministry and departmental committees

The LRC participates and provides advice to various Government and Ministerial Committees. It is currently active on:

- ☐ Eliminating Violence Against Women Taskforce
- ☐ National Advisory Committee for Children

Working with the Justice Sector

☐ The LRC participates in sector wide activities such as Law Week

As an agency under the umbrella of the Ministry of Justice and Legal Affairs the LRC contributes to planning and budget activities of that Ministry.

List of LRC Publications

The following is a list of publications by the LRC to date:

1. Issues Paper - Review of the Penal Code 2008
2. Consultation Paper – Mental Impairment Criminal Responsibility and Fitness to plead 2010
3. First Interim Report for the Review of the Penal Code and Criminal Procedure Code – Corruption Offences 2011
4. Research Paper – Sentencing for Sexual Offences – Review of the Penal Code and Criminal Procedure Code 2011
5. Consultation Paper – Review of the law that applies to land below high water mark and low water mark 2009

Issues affecting LRC

The position of Chairman has been vacant since 2009 when the Chairman at the time Mr. Frank Kabui (now Sir Frank Kabui) took up the position as Governor General of Solomon Islands. LRC has advertised and tried to attract senior practitioners to apply for the post but this has been difficult. The position of Chief Legal Officer is also vacant.

The LRC has advertised and conducted interviews in 2011 for the position of Principle Legal Officer. Hopefully, this position will be filled up in the New Year 2012.

Retention of staff and attracting experienced staff to the Commission are issues for the LRC.

Name of the contact person for LRC, phone number and email

Kate Halliday, Research Manager, Principal Legal Officer, Law Reform Commission

Phone: (677) 38773, Email: katehalliday@lrc.gov.sb

PUBLIC SOLICITORS OFFICE

The Public Solicitor and the Public Solicitor's Office are Offices established pursuant to the Constitution of Solomon Islands.⁵ Legal Officers and administration staff are public officers.

The PSO maintains good relations with a number of government and nongovernmental organizations such as the Social Welfare Division of the Ministry of Health and Medical Services, the Family Support Centre and the Christian Care Centre.

The Public Solicitors Office is strongly committed to eliminating violence against woman and considers this issue to be one of the office's key priorities. Victims who need legal assistance from the Public Solicitors Office can get a referral from the Family Support Centre in Honiara or the Social Welfare Division. The Public Solicitor also sets aside time every week to meet with talk walk-in clients. Under the draft means and merit test, domestic violence and child protection matters are given high priority. Public can access legal advice, preliminary assistance and representation in court regardless of their means (income or property) or the merits of the case.

The Public Solicitors Office is also looking at improving its Civil Unit in 2012 on particular on setting up a separate and specialized Family Protection Unit that will divert additional resources to domestic violence and child protection matters. The Family Protection Unit will also develop a victim's services practice.

In terms of sectoral reform, Public Solicitors Office recognizes that family violence, child abuse and violence against women are a real concern in the Solomon Islands. There is a great deal more that needs to be done to improve the lives of families and children. An effective response to gender-based violence requires a concerted effort from the whole law and justice sector⁶. To this end the office is working closely with allied service providers, including the Family Support Centre, Royal Solomon islands Police Force, Ministry of Health and Medical Services and Social Welfare Office to improve the sector-wide response to violence against woman.⁷

We are all too aware of the limits of the current legal system in that protection orders are difficult to obtain and enforce and do not provide any guarantee of safety to those who obtain them. Violence and threats are criminal offences and should be reported to the police for action. One of the strongest means of providing protection to women who are victims of violence is vigorous police action. This is

⁵ Section 92 of the Constitution

⁶ This position reflects the Solomon Islands Government Policy on Eliminating Violence Against Violence.

⁷ Together with these agencies the Public Solicitors Office was a founding member of the Honiara-based domestic violence referral network (REFNET) and over the past year the office has successfully developed consistent and effective referral system.

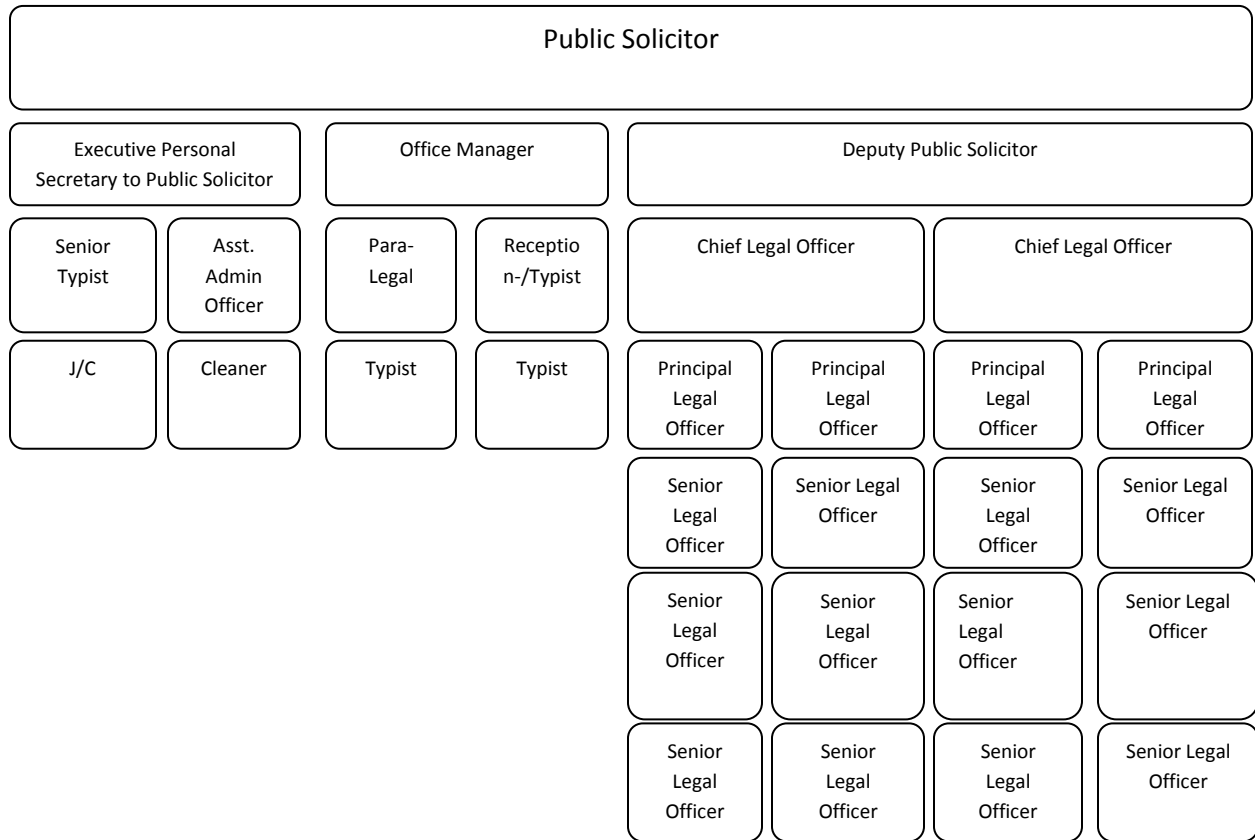
especially so when offenders are arrested, charged and either detained or placed on bail with strict conditions not to contact the victim. Such bail conditions will result in immediate loss of liberty if breached.

The office also welcomes the development of the Family Bill Protection Bill and proposed reforms to the Penal Code that will make it easier for the police and those in danger to take effective legal action. The office can't wait and calls on the Solomon Islands Government to implement the proposed reforms and to put in place effective legislative response to the issue of gender-based and domestic violence.

Functions

<p>Provide Legal Aid to members of the Public</p>	<ul style="list-style-type: none"> ▪ Provide legal aid, advice and assistance to people in need (financially disadvantaged) in criminal and civil matters including land, family and other legal services ▪ Provide legal aid, advice and assistance to Provincial Centres ▪ Conduct appeals to the Court of Appeal and High Court of Solomon Islands
<p>Promotion and protection of rights</p>	<ul style="list-style-type: none"> ▪ Promote the freedoms and rights of individuals as guaranteed by the Constitution and applicable domestic and international law ▪ Conduct community education awareness to inform and educate the public about their rights and their responsibilities as citizens ▪
<p>Contribute to updating the laws of Solomon Islands</p>	<ul style="list-style-type: none"> ▪ Promote the development of law and law reform through appeals and challenge of administrative decision by way of the Ombudsman and Judicial Review and make submissions and comment on matters of law reform
<p>Maintain and develop professional standards and capacity</p>	<ul style="list-style-type: none"> ▪ Provide training opportunities to all staff to improve their skills ▪ Recruit and train staff to perform and support the performance of these activities

Organizational Structure



The Management Team

The Public Solicitor has ultimate responsibility and authority over the office.⁸ The Public Solicitor is assisted by the Office Management Team which consists of the Public Solicitor, Deputy Public Solicitor, Practice Manager, Office Manager and from time to time the Leaders of the Magistrates Court and Training Team and the Civil Court and Training Team. The Management Team holds regular meetings and under the direction of the Public Solicitor it coordinates the delivery of services and Office support functions in accordance with the directions of the Public Solicitor and the Corporate Plan.⁹

⁸ By virtue of section 92 of the Constitution of Solomon Islands the Public Solicitor “shall not be subject to the direction or control of any other person or authority”.

⁹ Management Team meetings are held on 1st and 3rd Tuesday of each month. Staff meetings are held on the last Friday of each month.

The Administration Team

The role of the Administration Team is to support the activities of the service delivery teams. Its major areas are security, cleaning, reception, data entry, document storage and retrieval, accounts and record keeping.

The Magistrates Court and Training Team

The role of the Magistrates Court and Training Team is to provide services to the Magistrates Court's criminal jurisdiction, provide staff for provincial tours and to induct new staff and students into the work practices of the PSO. Members of the High Court Team will move into the Magistrates Court Team as required to support the activities of the Team.

As far as possible the team will ensure that its activities contribute to the capacity development of the Solomon Islands Government (SIG) staff. It is intended that no significant activity in the team will be conducted by a senior SIG lawyer or by an advisor without the activity being used as a training opportunity for a junior SIG lawyer. Senior Legal Officers are expected to rotate through both this team and the Civil Team for the purposes of their professional development.

The Civil Court and Training Team

The Civil Court and Training Team is to provide services to the Central Magistrates Court and High Court jurisdictions, to provide staff for Trade Dispute Panel (TDP) provincial tours to induct new staff and student into the work practices of the PSO.

As far as possible the team will ensure that its activities contribute to the capacity development of SIG staff. It is intended that no significant activity in the team will be conducted by a senior SIG lawyer or by an advisor without the activity being used as a training opportunity for a junior SIG lawyer. Senior Legal Officers are expected to rotate through this team and the Magistrates Court and Training Team for the purposes of their professional development.

The Landowners Advocacy and Legal Support Unit (LALSU)

This Unit provides information to communal land owners on their rights over the use of their land and resources. The Unit has a range of brochures, DVD's, workshop materials and so on, which they have developed and which are available for public distribution. The Unit has the ability to conduct a small number of test cases but otherwise does not provide litigation services. Since 2010 LALSU has broadened its focus and that the priority areas for LALSU are: logging, Mining and Protected Areas. LALSU has prepared a manual entitled "Mining Law and Agreement Making in Solomon Islands" which

has been released as a consultation draft.¹⁰ This manual is intended to help landowners understand mining laws. LALSU will be preparing a handbook on mining law and will be doing community education work. The handbook will explain the mining laws that apply in Solomon Islands and will help landowners negotiate agreements with the mining companies.

In terms of Environmental Law, LALSU is preparing an environment law handbook to help landowners NGO's lawyer and others to understand environmental and resource law. It will cover issues such as logging, environment impact assessment, protected areas and fisheries.

In terms of Protected Areas, LALSU helps landowners understand what they can do to protected areas of land and sea. This work includes preparing materials on the new Protected Areas Act 2010 and doing community education on protected areas laws.

Provincial Offices

The PSO maintains offices in two main provincial centres namely in Gizo (Western Province) and in Auki (Malaita Province). Currently these offices are permanently staffed by administrative staff and a single legal officer.

¹⁰ Due date for end of consultation is 4th December 2011.

ATTORNEY GENERAL'S CHAMBERS

Functions

Under section 42(1) of the Constitution, the Attorney General is the Principal Legal Adviser to the Solomon Islands Government. Section 15 of the Crown Proceedings Act (Cap. 8) also provides that, unless provided by some other written law, all civil proceedings for or against the Crown must be instituted by or against the Attorney General.

The function of the Attorney General to the Government in this regard involves the provision of the following services:-

Litigation:

- represent Government in Magistrate, High Court and Court of Appeal
- represent Government in appeals to the High Court or Court of Appeal proceedings

Legal Advice:

- Provide legal advice and opinion to Government and its agencies
- Provide legal opinion to the Governor General, Parliament, Government Boards, Government agencies and Government Taskforces
- Sit or co-opted on Boards or Commissions to provide legal advice
- Provide legal opinion and ex-officio member of cabinet
- Advise the Financial Intelligence Commission & Financial Intelligence Unit on enforcing the Anti-Money Laundering & Proceeds of Crime Act

Legislative Drafting:

- Provide Legislation and legal drafting services to the Government, other Ministries and Government agencies
- Provide legal opinions on drafting to Government and its agencies

The Attorney General's Chambers is headed by Mr. Billy Titiulu, Attorney General, email address btitiulu@attorneygenerals.gov.sb

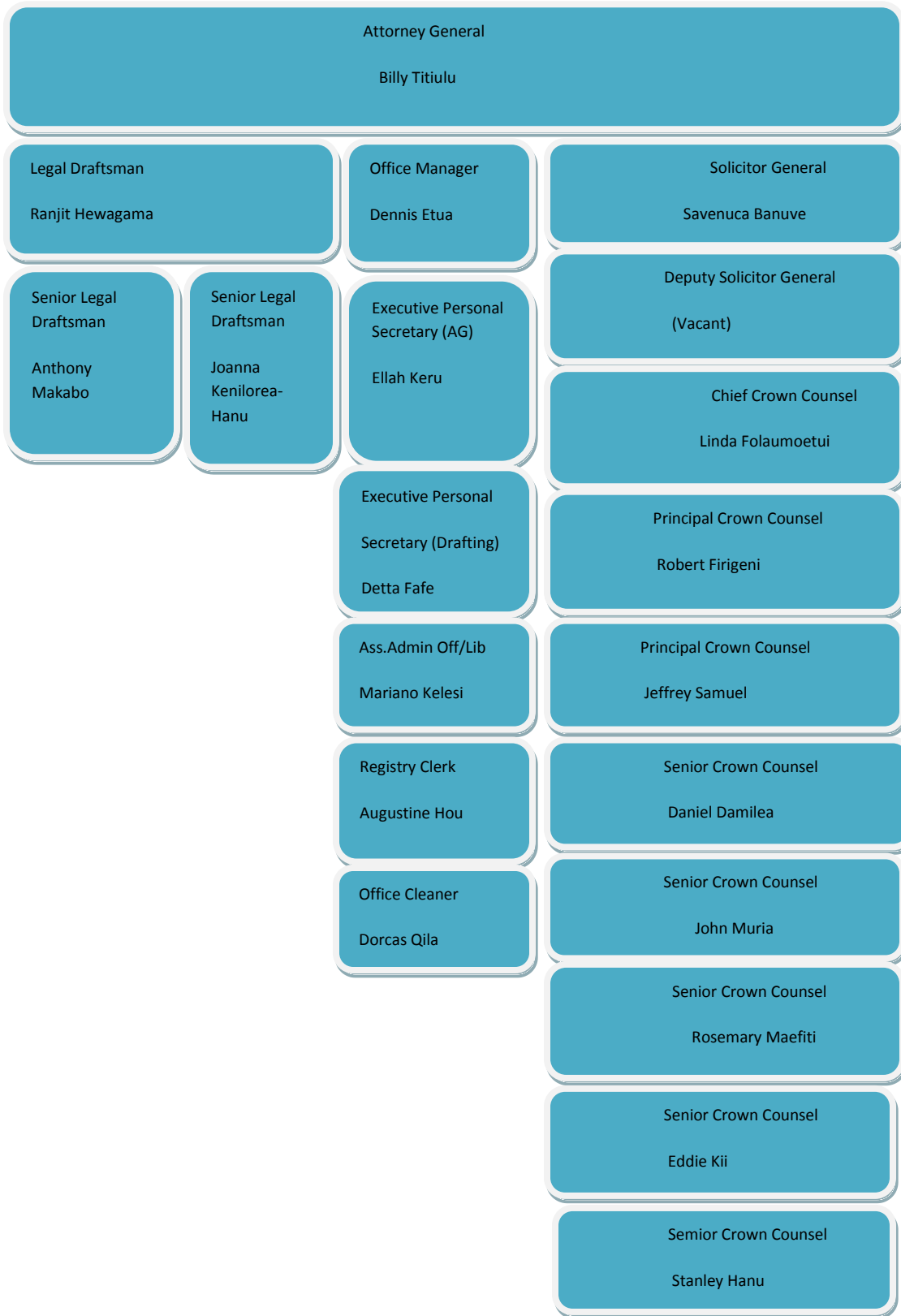
The Attorney General's Chambers office is located in –

Kalala Haus, Town Grounds Precinct

P O Box 111

Honiara, Solomon Islands, Telephone No. (00677) 28395 or 28296, Fax No. (00677) 28403

Organizational Structure



Bills submitted to Parliament in 2010-2011

1. National Parliament Electoral Provisions (Amendment) Act 2010
2. Protected Areas Act 2010
3. 2010 Supplementary Appropriation Act 2010
4. Customs Valuation (Amendment) Act 2010
5. Accountants Act 2010
6. Money Laundering and Proceeds of Crime (Amendment) Act 2010
7. Tobacco Control Act 2010
8. Extradition Act 2010
9. 2010 Supplementary Appropriation Act 2011
10. 2011 Appropriation Act 2011

MAJOR LAW AND JUSTICE SECTOR ACHIEVEMENTS

- Law Week 2011 (17th – 21st October 2011). There was an Open Forum and High School speech competition on the theme “No to Violence Anywhere”. Speakers were Sister Doreen founder of Women Crisis Centre, Public Solicitor Mr. Douglas Hou, Mrs. Nairy Alamu (a retired public over who is looking after Family Support, Inspector Florence Taro of the Royal Solomon Islands Police Sexual Assault and Family Unit and Father John Adai of the Catholic Church.

- Ministry’s monthly e-newsletter. First issue published in September 2011. A new initiative by the Communications Officer of the Ministry. A position funded by RAMSI machinery of the government in the law and justice sector and recently filled up.

- The launching of the following materials during the 2011 Law Week at the Public Solicitors Office stall by the then Prime Minister of Solomon Islands Hon. Danny Philip.
 - new Mining Manual and LALSU Resources, new Unit on Woman, Children and Families, Website, Duty Solicitor Manual, and Criminal Law Text book called ‘Evidence Law and Advocacy in SI’ by Robert Cavanagh¹¹.

- The ongoing workshops and trainings conducted by SIG- RAMSI Support Facility (SRSF) e.g. Capacity Development Network Workshop held in Honiara on 24th November 2011 and various Facilitation Skills, Making A Difference workshops.

¹¹ Robert Cavanagh is a senior advisor currently working in the Public Solicitors Office under RAMSI Law and Justice Programme. He is a barrister from Australia. This Law test book is being published online.

SIGNIFICANT COURT DECISIONS

Wale v Attorney General - Civil Case No. 73 of 2011

Wale v Speaker of Parliament – Civil Case No. 73 of 2011

This case was a judicial review application which was made by the Claimant (who is a member of Parliament for the Opposition) for the decision by the Speaker of Parliament to allow the Second Defendant to sit as a member although he had been sentenced to imprisonment for a term exceeding 6 months, which was contrary to section 51(1) of the Constitution.

The Attorney General was joined as a party to represent the Minister of Police and Parole Board. The Court dismissed proceedings against both the Minister and the Parole Board but allowed the claim against the Speaker of the House and the Parliamentarian (Second Defendant) to continue.

This case was in relation to section 51 of the Constitution. The Second Defendant had been elected as Member of Parliament following the national elections held in August 2010. On 30th of November 2010, the Second Defendant was sentenced to 24 months imprisonment for wounding charge and 9 months for the assault of a police officer. Both sentences were to be served consecutively. On or about January 2011, a decision by the Minister of Police upon recommendation from the Parole Board was made for the whole of the Second Defendant's sentence to be remitted and he was released from prison.

Section 51(1) of the Constitution provides that if a member of Parliament is sentenced in a court to death or imprisonment for a term of 6 months or exceeding 6 months which includes a suspended sentence, the Parliamentarian would immediately vacate his seat within 30 days and he shall no longer carry out any work as a member of Parliament.

This 30 days period can be extended by the Speaker of Parliament if an application is made by the Parliamentarian for the purposes of allowing the member to lodge and appeal against his conviction or appeal. An extension was granted by the Speaker, and the Second Defendant continued to sit in Parliament.

Claimant's case was that the Second Defendant should be no longer sitting in Parliament as a member pursuant to section 51(1) of the Constitution.

The Defendants argued that by right he should be still be a member because under section 52(2) it provides that where the member is granted a free pardon, or conviction is set aside or his sentence reduced to a term of imprisonment less than 6 months or a punishment other than imprisonment is substituted, the member therefore shall not vacate his seat.

The Defendants further submitted that the effect of the remission granted by the Minister of Police and releasing the Second Defendant early from imprisonment were factors that enabled him to remain in Parliament as a member pursuant to section 51(2) of the Constitution.

The Court identified the live issues before the court are whether Mr. Lusibaea is caught by section 51(1) and if so, can he rely on the provisions of section 51(2) to continue sitting as an MP. The Court held that the Second Defendant had indeed been sentenced to a period over 6 months therefore was subject to the provision of section 51(1). The Court further held that the remission granted by the Minister of Police does not affect the original sentence and that the sentence was not reduced to one of less than 6 months. The Claim was successful.

Auga v Folotalu - Civil Case No. 308 of 2010

This matter was in relation to the National Election that was held in the Solomon Islands in August 2010. The ballot box and contents of one polling station (Faufanea I) were burnt by a crowd of people before the votes were counted.

One of the grounds submitted by the Petitioner as to why the election result should be set aside is the burning of the ballot box, ballot papers and associated documents therefore the real outcome of the election is not determined.

There is no specific provision under the National Parliament Electoral Provisions Act as to what *Fono v Fiulaua* – Civil Case No. 335 of 2010. However the relevant provisions of the Act were considered as to whether the burning of the ballot box of may invalidate the election results.

Section 66(2) states that where evidence in an election petition shows that corrupt, illegal practices, illegal payments employments or hiring in relation to the election for the purpose of promoting or procuring the election of any person, and those acts had affected the result, that person's election shall be invalid and shall be disqualified from being a member of Parliament.

Section 9 states that no election shall be invalid because of non-compliance with the Act, where it appears that the election was conducted according to the principles of the Act and the alleged non compliance does not affect the result of the election

It was held by the Court that there was an offence committed under section 68 which is destroying a ballot box or ballot papers. However the identification of the person(s) who carried out this act has not been found therefore the elements of section 66(2) has not been proven as to who carried out illegal practices and there is no proof that this illegal act was carried out for the promoting or procuring of any particular person therefore affecting the results.

Further the Court accepted the evidence that there were 634 registered voters that could have voted at the Faufanea I polling station. The winning candidate who won the election in this constituency, polled 2,370 and the Petitioner polled 1,428. If Faufanea I polling station voters had all voted for the Petitioner, that is all 634 voters, the Petitioner would still have been 254 votes short of the First Respondent

(candidate who won) total, this would not have affected the result of the election. The result of the determination of the candidate with the majority of votes and in this case the First Defendant was the successful candidate over the Petitioner.

SIGNIFICANT LEGAL REFORMS

In 1995 several references were given to the Law Reform Commission (LRC) by the Minister. The following is a list of the references.

<u>Reference</u>	<u>Year given</u>
Section 5C of the Forest Resources and Timber Utilisation Act.	1995
Marriage and divorce law (including the Islanders' Marriage Act and the Pacific Islands Civil Marriages Order 1907).	1995
Building Code	1995
Review of the law relating to the treatment of mental patients	1995
Penal Code and Criminal Procedure Code	1995
Law of Treason (including Part VII of the Penal Code)	1995
Law of Sedition	1995
Law, including customary law, that applies to land below high water and low water mark	1995
Customs and Excise Act & penalty provisions in Customs and Excise Act (two references)	1995 & 1996
United Kingdom laws of general application in Solomon Island	1995

The LRC has prioritized the review of the Penal Code and the Criminal Procedure Code, and the review of the law (including customary law) that applies to land below high water and low water mark. Two references such as that on treason and sedition have been incorporated into the review of the Penal Code and the Criminal Procedure Code. Some references are now obsolete due to activities carried out

by other government agencies and departments (e.g. review of the Customs and Excise Act and penalty provisions in the Customs and Excise Act). Others are still relevant for example the review of Marriage and Divorce laws (including the Islanders' Marriage Act and the Pacific Islands Civil Marriages Order 1907).

Review of the Penal Code and Criminal procedure Code

In 2009 and early 2010 the LRC conducted stakeholder and community consultations throughout the country on the Penal Code. It has released an interim report on corruption offences (see below) in 2011, and is currently working on developing draft recommendation on sexual offences.

A discussion paper on Mental impairment, Criminal Responsibility and Fitness to plead was released in 2010 (see below). In terms of this project ,some issues that may need to be addressed through law reform including:

- risk of lengthy and indefinite detention in prison of people with mental impairment who are accused of a criminal offence;
- limited rights of appeal from decisions regarding fitness to plead;
- lack of clarity in legislation regarding decision making;
- the need for specific court powers for assessments of people with a possible mental impairment;
- the scope and application of the defence of insanity; and
- the outcome of a successful defence of insanity.

The paper also identifies some options for reform to address these issues. Further consultations on this project are currently underway in 2011.

LRC is also working on a sentencing project which focuses on punishment options in the Penal Code, the principles and objectives of sentencing, factors to be considered when determining sentence, the possibility for community based punishment options, and the interface between customary justice and the formal justice process.¹² Targeted stakeholder consultations were carried out in 2010 and a discussion paper for this project is currently being developed.

¹² The Law Reform Commission is organizing a one day conference on the theme 'Promoting consistency and fairness in sentencing' on Friday 9th December 2011 at the Mendana Hotel in Honiara, Solomon Islands. The key note address on the development of sentencing guidelines will be delivered by Dr. Warren Young, a former Deputy President of the New Zealand Law Commission

Review of the law (including customary law) that applies to land below high water and low water mark

The LRC also began work on the review of the law (including customary law) that applies to land below high water and low water mark in 2009. A consultation paper was released in 2009 (see below). Significant consultation was conducted on this review in 2009,2010 and 2011, some in collaboration with the Landowners Advocacy and Legal Support Unit (LALSU) of the Public Solicitors Office (PSO). This reference also attracted a high number of walk in submissions from interested persons. In February 2011, LRC conducted a Land Conference in Honiara. Participants were from Government Ministries and Departments, interest groups, NGO/CSO and donor agencies. Draft recommendations for this review are currently being developed for reform on this area of law.

The notable legal reform in terms of legislation are the Parliament’s passing of the following laws:- Extradition Act 2010, Money Laundering & Proceeds of Crime Act 2002¹³, Counter-Terrorism Act 2009.

¹³ This Act was amended by Parliament in 2010

SUMMARY OF SIGNIFICANT ISSUES AFFECTING THE LAW AND JUSTICE SECTOR (INCLUDING ISSUES FOR DISCUSSION WITHIN PILON) AND OPTIONS TO ADDRESS THESE ISSUES

- Ineffective collaborative communication links and approaches between different justice agencies – establishment of JSCC, JSTOG, JSG, EMG, MAPART and the recruitment of the Ministry’s Communications Officer which saw the production of monthly Minsitry’s e-news letter first publication in September 2011.
- Recruitment and filling in of vacant positions e.g. LRC Chairman earmarked for 2012 – note this position has been advertised but no one applied, Registrar General and several vacant positions in other agencies.
- Political Instability – except for the 2011 Appropriation Bill, Parliament did not pass any other Bills in 2011 due to lack of Parliament sittings this year. Although there is currently a Government Policy on Gender-based violence and a lot of initiatives have been to translate the policy into law, the Parliament is yet to enact the relevant law.
- Funding – budget for 2012 still not passed by Parliament. JSSC still to strike a deal with RAMSI machinery of the government re funding to implement some of its important activities and for transition proposed for 2013.
- Transition on RAMSI’s exit e.g. lack of experience and leadership capabilities in some areas. Relevant leadership & succession development trainings earmarked for 2012 in the Ministry’s Corporate Plan for 2012-2014 with the assistance from the RAMSI Justice Sector Program. This is vital for RAMSI’s draw-down exercise for RAMSI’s exit strategy. There is still some uncertainty in sustainability in terms of continuous funding and delivery of some services if RAMSI leaves at end of 2013 as projected.
- Inadequate Pay and unattractive employment conditions – a breeding ground for corruption and vacant positions not being filled despite repeated advertisements.
- Corruption in areas of licensing, monitoring and evaluation processes across the whole of the government services in particular in the forestry, fisheries, aid money and so on depriving the government and resource owners the maximum benefit they should be lawfully getting from these natural resources.

SIGNIFICANT INITIATIVES/PROJECTS INVOLVING THE MEMBER COUNTRY AND ITS LAW AND JUSTICE SECTOR

- Hosting the 'International State Supported Community Justice Workshop' in Honiara from 26th to 28th October 2011. Participants from PNG, SI, Vanuatu, Nigeria, Philippines, Sierra Leone and South Africa. This workshop was opened by the Chief Justice of Solomon Islands Sir Albert Palmer CBE. The key note address was delivered by the Vanuatu's Minister for Justice and Community Services Honourable Ralph Regenvanu. Solomon Islands Truth and Reconciliation (TRC) Commissioner and Fijian High Chief Ratu Joni Madraiwiwi closed the workshop. RAMSI Special Coordinator Nicholas Coppel thanked all participants at the end of the workshop in an afternoon cocktail supported by the RAMSI Law and Justice Program.
- Parliament Open Day on 1st December 2012. Activities include Young Women Parliament debate on the theme topic of 'gender-based violence and eliminating all forms of violence against women'. ODPP also had a stall at this open day and displayed brochures and answered questions from the public about what the ODPP does in relation to issue of gender-based violence e.g. protection from the criminal law (charges that can be laid), prosecutions in relation to domestic violence, emphasis on reporting and legal processes after reporting of complainant
- Observance and celebration of important International events such as the 16 Days of Activism Campaign and White Ribbon Day in November 2011 to promote the rights of women. A parade was held on 29/11/11 in the Capital Honiara to mark these events. These events have been welcomed and supported by the Government of Solomon Islands and RAMSI. According to the study carried out by the Ministry of Women, Youth, Children and Family Affairs, Solomon Islands is one of the countries that has the highest rate of violence against women and children.
- Important events coming up in 2012 for the Solomon Islands and its Law and Justice Sector are: the hosting of the 2012 Pacific Prosecutors Association (PPA) Conference in Honiara (Heritage Park Hotel). It will be a historical event not only to the Solomon Islands ODPP but the whole justice sector and the country as a whole. The 2012 PPA Conference will coincide with the Pacific Arts Festival which will be hosted in Solomon Islands in July 2012 and also coincides with the 30th anniversary of the SI-ODPP. We will be ready to host the 2012 PPA Conference, funds from at least three sources have been confirmed and the official programme is now being developed. All Prosecution Heads of the PILON Member countries are urged to attend the 2012 Pacific Prosecutors Conference in Honiara, Solomon Islands.
- The Office of the Director of Public Prosecutions (ODPP) has established the following specialized units and coordinators for the prosecution of following offences:- Sexual Offences, Corruption, Proceeds of Crime and Money Laundering, Transnational crimes. Establishment of an environmental unit and a coordinator for environment related offences is also planned for 2012.

- Apart from its core prosecutorial functions, the ODPP also actively engages with its stakeholders both within and without the Ministry of Justice and Legal Affairs. The DPP is the Chair of the Anti-Money Laundering Technical Expert Group (AMLTEG) which monitors the progress of the FATF + 9 Recommendations being implemented in the country.
- Recently the DPP attended the meeting in Auckland on Counter Terrorist Financing of the Non-Profit Sector.
- Other activity in 2011 – the ODPP was involved in the Law Week festivity¹⁴. This was a time when the DPP and staff made public awareness presentations about the office and its role within the criminal justice system and how it relates to the maintenance of the rule of law and preservation of good governance.
- The DPP was involved in designing the framework for an HIV Legislation for Solomon Islands (yet to present to Cabinet for endorsement prior to putting together a draft).
- The ODPP was involved in putting together legislation on “Child Protection”¹⁵.
- The ODPP is a member of the International Association of Prosecutors (IAP) and attends that meeting every year.

¹⁴ The 2011 Law Week was held in the Capital Honiara from 17th – 21st October. The first Law Week ever in Solomon Islands was held last year also in the month of October in Honiara. Due to its success, it is now being made an annual event.

¹⁵ This Bill is yet to be passed into law by Parliament

TRAININGS AND MEETINGS

LAW REFORM COMMISSION

Relevant trainings and meetings attended by Legal Officers from the Law Reform Commission from 2010 - 2011

Training	Date	Venue	Provider	Type	Officers
Secondment – Australian Law Reform Commission	22 Sept- 8 Oct 2010	Sydney, Australia	Australian Law Reform Commission	Legal	Daniel Suluia, Kathleen Kohata
Secondment – New Zealand Law Commission	23 Sept – 10 Oct 2010	Wellington, Australia	New Zealand Law Commission	Legal	Philip Kaniarara
Making A Difference - Capacity Building Workshop	19-27 M ay 2010	Honiara	RAMSI		Kathleen Kohata
Professional Diploma in Legislative Drafting – Distance Learning Mode	April – Nov 2010	Honiara/Fiji Islands	University of the South Pacific	Legal	Philip Kanairara
Legal Pluralism - Law and Culture Conference	August 2010	Honiara	University of the South Pacific/ World Bank	Legal	Kathleen Kohata
Microsoft Word and Excel	8 Nov – 3 Dec 2010	Honiara	EN Technologies	Legal	Philip Kanairara, Daniel Suluia
Media Training	12,17,19,23 Nov 2010	Honiara	Solomon Islands Media Assistance Scheme (SOLMAS)	Legal	Philip Kanairara, Daniel Suluia

Paclii Training	2010	Honiara	Paclii	Legal	Kate Halliday, Philip Kanairara, Daniel Suluia, Lauren Banning, Kathleen Kohata
-----------------	------	---------	--------	-------	--

Training	Date	Venue	Provider	Type	Officer
Qualitative Research Training Workshop	January 2011	Honiara	World Bank	Legal	Philip Kanairara Daniel Suluia Kathleen Kohata
Professional Diploma in Legislative Drafting – Distance Learning Mode	April - November 2011	Honiara/Fiji	USP	Legal	Daniel Suluia Kathleen Kohata
Developing Legislation to address violence against women workshop	29 June – 1 Jul 2011	Honiara	RRRT/LRC	Legal	Kate Halliday, Daniel Suluia, Kathleen Kohata
Advancing Legislative change for Violence against women legislation Conference	25 – 29 July 2011	Nadi, Fiji	SPC/RRRT	Legal	Daniel Suluia
American Bar Association Rule of Law Initiative Workshop on Human Trafficking	4 -11 August 2011	Honiara	ABA ROLI	Legal	Kathleen Kohata
Law and Culture Conference	August 2011	Port Vila, Vanuatu	USP, World Bank	Legal	Philip Kanairara

LRC Meetings With	Date	Venue	Issues Discussed	Officers present
Pacific Islands Forum Secretariat Expert Group on Sexual and Gender Based Violence	2011	LRC	Sexual and Gender Based violence in Pacific – possible regional response to issue	Kate Halliday, Kathleen Kohata
Pacific Islands Forum Secretariat Drafting Team	3 March 2011	LRC	Possibilities for supporting judicial and legislative drafting services in SIG	Kate Halliday, Philip Kanairara, Kathleen Kohata, Daniel Suluia
Australian Attorney General's Department	2011	LRC	Technical Assistance	Kate Halliday, Philip Kanairara, Kathleen Kohata, Daniel Suluia

PUBLIC SOLICITOR'S OFFICE

Relevant trainings and meetings attended by Legal Officers from 2010 -2011

Officer	Destination	Date	Purpose
Rodgers Tovosia Brian Hiele Douglas Hou	Sydney, Australia " "		Work shop with Environmental Defender's Office ((EDO)
Mirriam Lidimani	Brisbane	26 Aug-2 nd Sept 2010	National Access to Justice- Prono- Bono Conference.
Rodgers Tovosia	Melbourne	Sept- Dec 2010	Vic Bar Training
Sophia Munamua Allan Tinoni George Gray	Sydney, Australia " "	14 th Sept-21Sept 2010	EDO conference
Solomon Kalu	Perth,	15 Sept-29 Sept 2010	On the job Training

	Western Australia		with Steve Wilson (western Australia).
Benham Ifutoo Wayne Ghemu	Suva, Fiji	2 nd Nov- 6 th Nov 2010	Legislative Drafting Workshop
Jacob Kinai Martha Manaka Anderson Kesaka	Port Vila, Vanuatu " "	30 th Nov- 14 th Dec " "	PILON Training
Sophia Munamua	Auckland, NZ	26 th Nov- 6 th Dec 2011	Human Rights Advocacy Training.
2011			
Solomon Kalu	Perth	1 week (August)	Advocacy training
Sophia Munamua	Melbourne	3 months (Aug-Oct) 2011	Victorian Bar Readers Course
Martha Manaka	Sydney	Sep-Dec	EDO- Work attachment
Douglas Hou Anderson Kesaka	Suva, Fiji	31 st Oct-4 th Nov	Human Rights training
Solomon Kalu Stanley Aupai Lappy Hite	Suva, Fiji	4 th Nov-12 th Nov	Legislative drafting workshop
Benham Ifutoo Allan Tinoni Solomon Kalu Wayne Ghemu Nigel Galo Michael Holara Hubert Fugui	Heritage Park Hotel, Honiara	11-15 Sept	Intensive Advocacy Training facilitated by a team from Victorian Bar and hosted by the Solomon Islands Bar Association.

ATTORNEY-GENERAL'S CHAMBERS

LEGISLATIVE DRAFTING MEETING/TRAININGS

Anthony Makabo, Senior Crown Counsel attended the following meeting/training

Date	Name of the meeting/ training	Place of meeting / training	Who funded the meeting/ training
9 -17 / September 2011	Sub-regional consultation on "Accelerating progress in HIV Law reform : Addressing discrimination through Legislative Reform in selected Pacific Island Countries	Nadi (Fiji Islands)	UNDP / Secretariat of the Pacific Community
June 2011	Travelled with Ministry of Health Delegation to Papua New Guinea (Port Moresby) on fact finding mission on how to address HIV /AIDS in legislative reform.	Port Moresby , PNG	Solomon Islands Government through Ministry of Health and WHO
3-6 May 2011	Attended & participated in Tonga Cybercrime workshop	Nukualofa (Kingdom of Tonga)	Secretariat of the Pacific Community
2 nd -4 th March 2011	Attended Cybercrime workshop in Vanuatu	Port Vila	UNDP / Secretariat of the Pacific Community
19 /09/ 2010	Attended Paclii Advanced Training	Honiara (Solomon Islands)	USP
in December 2010	Attended Maritime Policy and Legislative Drafting Workshop	Suva, (Fiji Islands)	Secretariat of the Pacific Community

LITIGATION AND LEGAL ADVICE TEAM ATTENDANCE AT MEETINGS/TRAININGS

Date	Name of meeting/training	Place of meeting/training	Who funded the meeting/training	Person who attended from AGC
17 th - 18 th March 2011	Delimitation of Maritime Boundary between SI and Vanuatu, Bilateral (locally funded - PMO) –	Port Vila, Vanuatu	Solomon Island Government	Daniel Damilea, Senior Crown Counsel

10-12 May 2011	Money Laundering Report	Honiara, Solomon Islands	Financial Institute Unit	Rosemary Maefiti, Senior Crown Counsel
5 th – 8 th June 2011	Deep Sea Mining Meeting (SOPAC	Nadi, Fiji	SOPAC	Daniel Damilea, Senior Crown Counsel
6-8 June 2011	Third Commonwealth Red Cross & Red Crescent International Humanitarian Law Conference	Kuala Lumpur, Malaysia	International Committee of Red Cross	Rosemary Maefiti, Senior Crown Counsel
11 th – 22 nd July 2011	Maritime Boundary and Extended Continental Shelf Workshop	Sydney, Australia	Solomon Islands Government	Daniel Damilea, Senior Crown Counsel
September 12 -15 2011	Advanced Trial Advocacy Workshop	Honiara, Solomon Islands	Victorian Bar Association and Solomon Islands Bar Association	Robert Firigeni, Principal Crown Counsel, Daniel Damilea , Senior Crown Counsel and John Muria (Jnr.), Senior Crown Counsel
17 October – 9 November 2011	Fisheries Bilateral Access Consultations	Seoul, Korea, Tokyo, Japan, Kaoshiung and Brisbane, Australia	Solomon Islands Government	John Muria (Jnr.), Senior Crown Counsel
10 – 14 November 2011	Meeting on the model bill on <i>Integrity in Public life</i> , for	Auckland, New Zealand	Commonwealth Secretariat	Robert Firigeni, Principal Crown Counsel

	consideration by South Pacific Countries.			
--	---	--	--	--

OFFICE OF DIRECTOR OF PUBLIC PROSECUTIONS

Relevant trainings and meetings attended by Legal Officers in 2011

Date of training	Name of training	Where the training was held and what organization hosted the training	Who attended the training (name of officer/s and agency)
23 rd June – 7 th July 2011	Legal Development Training Programme	Seoul, Korea/Korean International Cooperation Agency, Legal Research and Training Institute and the Ministry of Justice of Korea	Henry Kausimae, (Principal Legal Officer)
October 2011	Fisheries Prosecution Training	Honiara, Solomon Islands/Forum Fisheries Agency	ODPP Prosecutors, Ministry of Fisheries Officers
8 th – 11 th August 2011	‘Human Trafficking in Solomon Islands: Risks, Challenges and Multi-Stakeholder Solutions’ Workshop	Honiara, Solomon Islands/Organized by the American Bar Association Rule of Law Initiative (ABAROLI) and sponsored by the U.S State Department’s Office to Monitor and Combat Trafficking in Persons	Mr. Ricky Iomea (Principal Legal Officer) and Taearo Walenenea (Senior Legal Officer)
5 th September – 27 th October 2011	Victorian Bar Readers Course	Melbourne, Australia/The Victorian Bar	Ricky Iomea
11 th March 2011	Joining Forces to Asset Recovery and Counteraction International Corruption	Almaty City, Kazakhstan/	Natalie Kesaka & Andrew Kelesi (Senior Legal Officers)

10 th -12 th May 2011	Strategic Implementation Planning Framework to prioritize DAR Recommendations	Honiara, Solomon Islands/AMLAT (AGD)	Natalie Kesaka and Florence (Senior Legal Officer)
4 th – 12 th June 2011	HIV On Site Visit to PNG on HIV Legislation for Solomon Islands	Port Moresby, Papua New Guinea	Natalie Kesaka,
12 th – 15 th September 2011	‘Advanced Trial Advocacy Workshop’ facilitated by a team from the Victorian Bar	Honiara, Solomon Islands/hosted by Solomon Islands Bar Association and sponsored by RAMSI Justice Sector	Henry Kausimae, Natalie Kesaka, Florence Joel, Andrew Kelesi
24 th September 2011	SOLMAS Court Reporting Training Workshop	Honiara, Solomon Islands/hosted by the Solomon Islands Broadcasting Corporation and the Media Association of Solomon Islands	Natalie Kesaka and Florence Joel, Senior Legal Officers
24 th March 2011	Anti-trafficking Workshop	American Bar Association, Honiara, Solomon Islands	Tearo Walenenea, Andrew Kelesi , and Augustine Aulanga (Senior Legal Officer)
September – December 2011	Office Placement (Secondment) in a specialized prosecution office dealing with proceeds of crimes offences	Commonwealth Director of Public Prosecutions Office/Criminal Assets Branch , Canberra , ACT Australia	Tearo Walenenea, Senior Legal Officer
22 nd – 24 th August 2011	ICB4PAC Project Workshop non Concepts and Techniques of Drafting Cyber Policy and Legislation	ITU, Apia, Samoa	Augustine Aulanga
21 st July – 22 nd July 2011	National Workshop on Custody and Maintenance of Children Reciprocal Enforcement of Foreign Judgment and Extradition Arrangements Between MSG members	Honiara, Solomon Islands	Florence Joel

Date of meeting	Name of meeting	Where the meeting was held	Who attended the meeting (name of officer/s and agency)
27 th – 29 th April 2011	Pacific Cybercrime Legislation Workshop	Nukualofa, Tonga	Mr. Ronald Bei Talasasa, Director of Public Prosecutions
27 th – 29 th June 2011	16 th IAP Annual Conference	Seoul, Korea	Mr. Ronald Bei Talasasa (Director of Public

			Prosecutions), Fatima Taeburi (Senior Legal Officer) & Henry Kausimae (Principal Legal Officer)
30 th June – 1 st July 2011	4 th World Summit of Prosecutors	Seoul, Korea	Mr. Ronald Bei Talasasa (Director of Public Prosecutions)
11 th -14 th September 2011	Accelerating progress in HIV Law Reform: addressing discrimination through legislative reform in selected Pacific Island countries	Nadi, Fiji	Mr. Ronald Bei Talasasa (Director of Public Prosecutions)
26 th – 28 th October 2011	Justice for the Poor (J4P) Program Community Justice Workshop	Honiara, Solomon Islands	Mr. Ronald Bei Talasasa (Director of Public Prosecutions)
7 th – 9 th November 2011	Regional Working Group on Preventing Abuse of the Nonprofit Sector for the Purpose of Terrorist Financing	Auckland, New Zealand	Mr. Ronald Bei Talasasa (Director of Public Prosecutions)
30 th May – 1 st June 2011	Pacific Prosecutors’ Conference	Port Vila, Vanuatu/hosted by the Director of Public Prosecutions	Mr. Ricky Iomea, Principal Legal Officer
14 th – 15 th June 2011	Melanesian Spearhead Group-Regional Combined Working Group Meetings on the Regional Police Force Academy (RPA), Formed Police Unit (FPU) and Police Cooperation	MSG Secretariat, Honiara, Solomon Islands	Florence Joel, Senior Legal Officer

Attachment C: Contact information for all law and justice agencies

(Same as in Solomon Islands Country PILON Report 2010. Also contact information for Law Reform Commission and Attorney General’s Office have been provided earlier under each respective headings)