



KIRIBATI COUNTRY REPORT

**28TH MEETING OF THE PACIFIC ISLANDS LAW OFFICERS' NETWORK
12- 16 DECEMBER 2009
SAMOA**

**OFFICE OF THE ATTORNEY- GENERAL
Bairiki, Tarawa, Republic of Kiribati**

Introduction

This is the report for Kiribati to the 28th Pacific Islands Law Officers Network (PILON) Annual Meeting to be held in Apia Samoa, 2009. This report highlights some of the activities of the Office of the Attorney – General since the last meeting in Vanuatu in 2008. Information on other activities can be provided upon request.

Office of the Attorney – General

The Office is responsible for all criminal, civil, land matters, litigation on behalf of the Government, and advising the Government on general legal matters. This includes advice work and 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 (vacant)
- 1 Senior State Advocates
- 2 Assistant Senior Advocates
- 5 State Advocates
- Supporting staff

Personnel Departure

In September this year one State Advocate has taken up a new post as one of a legal officer with the RRRT Project within the Ministry of Internal Affairs.

Legislative Reviews

A number of Bills were introduced during the recent Parliament session last month, and among these Bills which are of particular interest to this gathering are discussed below.

1. Court of Appeal (Amendment) Bill 2009

This Bill amends the Court of Appeal Act 1980 to better provide for appeals by the Attorney – General to the Court of Appeal against decisions of the High Court in Criminal cases. This Bill, if passed, will enable the Attorney – General to appeal against orders of the High Court staying proceedings, as well as orders which result in the discharge of an accused person without proceeding to a conviction.

The Bill would also extend the power of the Attorney – General to refer a point of law to also cover situations where a High Court ruling has resulted in a withdrawal of the charge. Without the amendment, the power to refer a point of law is limited only to cases of acquittal. With the amendment, it will be possible to challenge the ruling in the Court of Appeal and, if successful, to take further proceedings against the accused.

2. Local Government (Amendment) Bill 2009.

The Bill intends to amend the Local Government Act 1984 to confer additional voting rights upon the special members of the Council who is nominated by the old men. Put another word, the Bill is intended to improve the status of the representative of the 'old men' on the council to the same status enjoyed by the elected members of Parliament in matters such as the 'No Confidence Motion', 'Quorum', and 'Decision on Questions'.

The Bill is proposed in response to the collective wish of 'old men' raised during a recent national leadership conference held sometimes in October this year. It is also seen as a response to a recent incident whereby a Council Mayor on one of the Islands was removed from position by the 'old men'

Cases of Interest.

1. Republic v Aekaua Kaata & Koa Binokatau

This is the first case of its kind to be prosecuted under the *Proceeds of Crime Act 2003*, following the recent amendment of the Act in 2005. The amendment makes it an offence not to declare possession of sums in exceeds of AUS\$5,000 when entering or departing Kiribati. The two accused in this case, both seafarers, were apprehended at the airport in August and were both found in possession of approximately AUS\$6,550 and AUS\$8,000 respectively which they failed to declare upon arrival. Both accused pleaded guilty and were fined AUS\$500 each. Further to their fines, the High Court ordered that the money seized from each accused be forfeited to the Republic, the first time such an order was executed.

The success of this case is a result of a combine effort between the relevant authorities, internally and externally.

2. Fisheries Cases (Hai Soon 28 and FV Sung Hui)

The Office had played a leading role in Fisheries matters especially in relation to illegal fishing. So far a number of cases has been tried with successful outcomes. Earlier this year Hai Soon 28, a bunker vessel owned by Anthena Shipping PTE Ltd was arrested for illegal fuelling and entering the fishery limits without a license. It was prosecuted under the Fisheries Act and was fined by the High Court with a

very substantial amount. In August another vessel, FV Sung Hui, was found guilty by the High Court for fishing without a license and was also fined with a substantial amount.

We would like to emphasize here that all of these cases were made possible as a result of a combine effort between the Government and other regional organisation such as FFA, SOPAC, and even the US Coast Guard.

Matters of Interest.

Kiribati Law Society

As reported in our country report last year, the inaugural general meeting of the Society was held in March, at which time an executive was elected. The executive first task is to draft the society Rules, together with a Code of Conduct to be followed by the members. Up until this time the drafting work is still working and as of this moment it is not known when that will be completed. But once that done, further meetings will be convened to adopt these Rules and Codes. It is only hoped that the executive will convened it next meeting in the very near future.

PILON Litigation Skills Programme

Kiribati was a keen participation of this programme where officers from the Office of the Attorney – General, Office of the Peoples Lawyer and Kiribati Police Services always took part. We were fortunate to have six participants from Kiribati in the last programme held in Vanuatu. The opportunity to participate was greatly appreciated, and the Programme is considered to be a very positive demonstration of what might be achieved under the auspices of PILON. Thanks to the NZAID for funding the Programme and it is hoped that further such opportunities might be made available in the future.

Stayed Prosecutions

During the past years, the CJ has stayed several criminal cases, on the basis of unacceptable delay. The most recent of these stays was granted in cases where less than 14 months had passed between the alleged commission of the offence and filing of an indictment. We are concerned that a significant number of accused persons have walked free on this basis. We are presently considering an appeal to the Court of Appeal, to seek a conclusive ruling on these matters. Meanwhile we are now undertaking several initiatives to improve our capacity to file indictment in a timely manner. The Court of Appeal always conducted during the month of August every year