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# Pacific Judicial Development Programme Newsletter

Pacific Judicial Development Programme

June 2008



On behalf of the PJDP Executive, I greet our friends and colleagues warmly with this sixth edition of the PJDP Newsletter. The Executive is proud to share with you the successes and developments in a number of key judicial areas over the past few months. We thank you for your support. We would particularly like to thank Sir Mari Kapi, Chief Justice of PNG for his leadership of PJDP until recently, and to Chief Justice Lunabek of Vanuatu for bringing new Melanesian leadership to the Programme. As we embark upon the next annual plan of activities, I wish you all the very best and look forward to sharing more achievements in the coming months.

**Patu F M Sapolu, Chief Justice, Samoa  
Chair, PJDP Programme Executive Committee**

## Samoa Decision-Making Success

26 Ministry of Justice and Court Administration staff and users of the Samoan Lands and Titles Court were interviewed or asked to complete questionnaires to elicit their views about whether the quality of decisions received from Court have improved since they started receiving training on decision-making in 2007. All those asked confirmed that there have been improvements in the quality of decisions. The five most common improvements are:

1. The format of court decisions are clearer and the parties clearly identified which makes it easier to see who is eligible to appeal a decision;
2. Decisions are more brief and coherent;
3. Decisions now include reasoning which can be understood by parties;
4. The reasoning of decisions now includes quotation of relevant parts of Legislation and the Constitution; and
5. An overall improvement in the capacity of Lands and Titles Court Judges.

These wonderful achievements are commensurate with the hard work put into developing decision-making skills by the judges of the Samoan Land and Titles Court—congratulations!

## Regional Training Team

Eight accredited judicial educators from across the region have been selected to join the PJDP Regional Training Team. Each member of the Team will participate in a two-week intensive course in July to refresh skills and develop training programmes which directly respond to the priority needs identified by each Pacific island. The Team were selected on the basis that they have developed and delivered a significant amount of training in their jurisdiction and demonstrated the most advanced training skills. Your Regional Training Team comprises: Chief Magistrate John Numapo, PNG; Deputy Chief Magistrate Steven Oli, PNG; Chief Magistrate Leonard Maina, Solomon Islands; Associate Justice James Plasman, Marshall Islands; Associate Justice Dennis Yamase, FSM Supreme Court; Magistrate & Judicial Trainer Erite Awira, Kiribati; and Justice of the Peace Tangi Taoro, Cook Islands. We are excited about devolving training responsibilities to regional trainers and know they are excited about working with their friends and colleagues across the region.

## Tonga—benchbooks, decisions and service

The Commonwealth Secretariat based in London has generously provided PJDP with some funds to assist it to expand the pilot benchbook project. PJDP is now able to offer technical expertise to the Tongan Magistrates to develop a civil benchbook as well as update their criminal benchbook following substantial additions to the jurisdiction following the riots in November 2006. Judge Dick, President of the Children's Court and judge of the District Court, Queensland has recently visited Tonga to establish a team of writers who will be supported to research, draft and edit their benchbooks. We are extremely grateful to the Commonwealth Secretariat for its assistance and to Judge Dick for providing her expertise pro bono.

Tonga's Magistrates recently participated in decision-making training to further build their skills in this important area since the training that was provided in 2005. We look forward to hearing about the outcomes of this training in coming months.

Court administrative staff also recently participated in training on the provision of excellent service in their registries conducted by a senior registry official and designed in conjunction with the learning and development team at the Federal Court of Australia. This is the first training of its kind to be delivered for registry staff and PJDP looks forward to reviewing and publishing the training materials on PacLII.

## Mediation update

Samoa and Kosrae, FSM are piloting their systems of court-annexed mediation as developed with assistance from PJDP. Samoa is part way through several mediations and Kosrae has successfully mediated 10 out of 12 cases. Tonga, which has also received support from PJDP and separately from AusAID through the Federal Court of Australia has successfully mediated 13 out of 15 cases. Even lawyers who were skeptical about the concept are now asking for matters to be referred to mediation. Seeing mediation at work particularly in that it offers an efficient, appropriate and cost effective alternative to litigation is rewarding for all concerned, especially those who have worked so hard to make mediation a reality in their country.

As Pacific islands continue to develop and implement mediation systems, PJDP has entered into an exchange of letters with the Federal Court and the International Finance Corporation (a member of the World Bank Group) to further support mediation (and case management) across the region. We look forward to working with the other parties and to being able to offer more support to more Pacific islands who can see the benefit mediation could be to the people they serve.

Chief Justice Ford from Tonga shares his experience of making mediation work:

*"The key thing I found with getting mediation accepted was to inform the public about how it worked. We were fortunate because our Minister of Justice came up with an excellent initiative of having a "Law Week" which took the law out to the public. Lawyers went to villages and spoke at length on radio and television – even at prime time. The Federal Court with AusAID funding and PJDP kindly helped us make up a DVD of a mock mediation. The actors (who were superb) were all members of the Court staff. It was all in The Tongan language and it was shown on Tongan television each evening during Law Week. The response was truly amazing. School children would come up to our staff in the streets afterwards and call them by their screen names. After Law Week was over we had 120 copies of the DVD made up and distributed to every church and Village Committee in Tongatapu. The end result of all this magnificent publicity is that these days we very rarely have to explain to anyone how mediation works. The other critical point in the development and acceptance of mediation was in getting the right people trained as mediators. Tonga is indeed fortunate in now having 5 fully trained mediators."*

## Kiribati improves its response to family & the law issues

During the past 12 months Kiribati has worked hard to develop a series of policies and procedures to better respond to the needs of victims, witnesses and children involved in legal proceedings. These documents are almost all in effect and will soon be made available on PacLII for other PICs to consider their utility and amendment for local consumption, and include:

- ◆ **Court Policy:** Family and Domestic Violence Cases. Notice to Plaintiffs/Victims attending Court.
- ◆ **Court Guideline:** Application to withdraw, modify or terminate complaint or orders in Domestic Violence Cases [This was originally drafted as Practice Direction 1/2008]
- ◆ **Guidelines / Procedures for Juveniles in Need:** Issue of Warrant with respect to Juveniles in Need of Care and Protection
- ◆ **Court Staff Policy:** We Can and Cannot Do in Domestic Violence Cases

## Judicial Codes of Conduct

With more and more judicial codes of conduct being made available on PacLII, Pacific islands now have many more points of reference to assist the development of appropriate codes in each jurisdiction. PJDP over the past year has piloted the development of Pacific codes and has worked with Marshall Islands, Niue and Solomon Islands, all of which now have draft codes which will soon be finalised and implemented. PJDP would like to thank the Commonwealth Magistrates' and Judges' Association who provided many of the contact details for Commonwealth Chief Justices and their codes of conduct to facilitate their publication on PacLII. We look forward to publishing the codes developed in the Pacific soon.

## Civil and Criminal training: Tokelau & Tuvalu

Criminal and civil law and procedural training was recently conducted in Tokelau for the Law Commissioners and in Tuvalu for the Island Magistrates to provide basic skills and knowledge required to hear and make decisions about civil and criminal matters. Those pictured on the right are the Commissioners who travelled to Apia, Samoa for the training. Tokelau also used the opportunity to apply for Responsive Funding to bring over court staff and police representatives so they could all learn about how their roles and responsibilities relate and how they can better manage cases and work together. Sione Taione, the case-management coordinator from Tonga delivered the non-judicial training—thanks Sione!



## 2008-09 Annual Plan—what's in store

The Programme Executive has approved the 2008-09 Annual Plan which will commence in July. This year will see the Programme building on PIC achievements to date and extending the pilots undertaken this year. PJDP will retain the four pillars of the Programme:

Access to Justice	Extend mediation to selected jurisdictions throughout the region Support the development of family & the law policies and procedures responsive to the needs of victims, witnesses and children
Governance	Support the development and extension of judicial ethics and conduct frameworks Commence the development of regionally consistent strategic planning tools Develop peer-to-peer and inter-agency communication and coordination mechanisms
Systems and Processes	Develop a regional approach to efficiency in registry systems and processes Commence the development/revision of priority benchbooks
Professional Development	RTT address training needs in PICs Building local training capacity in PICs Building leadership capacity in PICs

Please contact the Programme Coordinator or the National Coordinator in each participating Pacific Island for more information.

## Round up

Since its inception at the beginning of 2007, PJDP has provided training to almost 300 people across the region in areas including: criminal/civil law and procedure, land law, decision-making, mediation, training-trainers, systems and processes, strategic planning and leadership.

Over the course of this financial year, the PJDP has made six Responsive Funding grants to the following jurisdictions in the following areas:

1. Tonga—probation and bailiff officer training;
2. Marshall Islands—development of a website to increase judicial transparency;
3. Marshall Islands—developing human resource management structures and work flows;
4. Tokelau—police and court clerks systems training;
5. Tonga—decision-making training; and
6. Cook Islands—participation at the Samoa Youth Justice conference in July.

\*All this and much more is available on <http://www.paclii.org/PJDP>

## Make a contribution

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