



South Pacific
LAWYERS ASSOCIATION

new SPLASH

Issue 6 • October – December 2012

Women in the Law



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When: 6–15 September 2012

◉ **LAWASIA Conference**

◉ **IPBA Conference, Seoul**

◉ **BABSEA CLE 1st Pro Bono Conference, Laos**

A word from...

Esealealofa Apinelu, Attorney-General of Tuvalu, South Pacific Lawyers' Association (SPLA) Executive Member and Chair of the SPLA Women in the Law Committee



Esealealofa
Apinelu

It gives me great pleasure to welcome you to this very special issue of *newSPLAsh*.

The legal profession was one of the last of the learned professions to admit women. It was not until the passage of the *Sex Disqualification (Removal) Act 1919* (UK) that women were allowed to formally practice law in Britain. Despite this radical change to British law (which also applied in many Pacific colonial jurisdictions), attitudes to women

becoming lawyers were very slow to change.

In the Pacific region, the progress of women in the law has lagged behind many other regions. As lately as a decade ago, it was rare to find a female lawyer in many jurisdictions across the Pacific Islands. Today, there is a historically high proportion of women participating in the Pacific Islands' legal professions. However, it still seems that there is a glass ceiling which prevents women lawyers rising to senior positions at the same rate as their male colleagues.

This issue of *newSPLAsh* has the theme of Women and the Law to coincide with the release of the SPLA Women and the Law Report. This report came from a discussion at the SPLA Executive Roundtable in July 2011 where it was noted that across the Region there are relatively equal numbers of female and male law school graduates. However, that has not translated to greatly increased numbers of female lawyers, law

firm partners, magistrates and judges in countries across the South Pacific.

The SPLA Executive agreed that a detailed analysis of female participation in the legal profession in member countries was required to determine whether there is a need for affirmative action or further research. The SPLA Women in Law Committee, which I chair, was given the responsibility of preparing a survey which was distributed to member countries in September 2011. Responses from member countries were received by May 2012. The SPLA Women in Law Committee then compiled the survey responses into a draft report which was considered by constituent members of the SPLA at a meeting on 31 October 2012. The SPLA Women in the Law Committee used the information obtained from the survey to develop a number of recommendations which will help to increase opportunities for women in the legal profession and to support them to progress in their careers.

The focus on gender equality in many countries in the Pacific is a relatively recent priority area. There is increasing awareness amongst leaders and at community levels that discrimination on the basis of sex is not acceptable, even if not all of our jurisdictions have laws to that effect. As lawyers, we are in a unique position to agitate for gender equality in the law and gender equality in our profession. It is a struggle in which we must continue to engage until women are more or less equally represented in all sectors including the legal profession, national and local government and community organisations.

I hope you enjoy this issue of *newSPLAsh* and I look forward to a day when the notion of equality in the legal profession is no longer an illusion.



Women's participation in Government leadership drops in Asia-Pacific

A United Nations Development Programme study released on 21 September 2012 revealed that in the Asia-Pacific the number of women in parliament, excluding those in Australia and New Zealand, is the lowest in the world.

On average, women account for less than 10 percent of ministers in Asia-Pacific while women hold slightly less than 20 percent of seats in parliament globally, the study released.

The study estimates that it will take 50 years for gender balance to be achieved in Asia-Pacific national legislatures if the increase in women's participation in parliaments remained at its current pace.

To expand women's empowerment in elected offices in Asia Pacific, the study recommends that these countries implement constitutional reform to expand the rights to vote and hold public office and remove all forms of sexual discrimination.

It also suggests using electoral finance and party laws in countries using proportional representation party lists and mixed electoral systems and gender rules to create equal opportunities for male and female members.

Reference:

Women's Network, Women's participation in government leadership drops in Asia-Pacific, available at <http://womennewsnetwork.net/2012/09/26/womens-participation-asia-pacific/>

Three women in Parliament following the 2012 Papua New Guinea elections

The 2012 national election saw a step forward for women's political representation in Papua New Guinea. Ms Delilah Gore (Sohe Open), Ms Loujaya Toni (Lae Open), and Ms Julie Soso (Eastern Highlands Provincial) were elected into Parliament following the recent elections, the fifth, six and seventh women to have ever held a seat in Parliament in Papua New Guinea.

After her win, Ms Toni told supporters she would focus on rural development during her term.

"We will fulfil the United Nations agenda of poverty alleviation by 2015 and that is my pledge to the people of Lae. We will begin to roll out for poverty alleviation," she said.

She told Radio Australia she had been campaigning for six months with a strong focus on the empowerment of women.

"I believe it's the way forward for women, because if in other countries women can go into parliament - why not in Papua New Guinea?"

References:

Australian National University, 'Changing Face of Parliament? Three Women Elected in PNG,' (3 September 2012, Outrigger: Blog of the Pacific Institute, <<http://asiapacific.anu.edu.au/blogs/pacificinstitute/2012/09/03/changing-face-of-parliament-three-women-elected-in-png/>>.

APWLD Forum News, News from the Region (August 2012), <http://www.apwld.org/wp-content/uploads/Forum-News-Vol-25-No1-August-2012.pdf?utm_source=APWLD+News&utm_campaign=6d08cda564-Forum_News_August_20129_3_2012&utm_medium=email#page=4>.

Australia Network News, More PNG women break through (24 July 2012) <<http://www.abc.net.au/news/2012-07-22/an-png-elect-women/4146756>>.

Papua New Guinea to have enabling law that will ensure equality

After years of lobbying and negotiations, the women of Papua New Guinea had something to celebrate last year when the Parliament of Papua New Guinea passed the Equality and Participation Bill.

The bill proposed to change the Papua New Guinea Constitution to allow for a fourth category to be created which would subsequently allow for the creation of 22 reserved seats for women was passed with only three MPs voting against the bill.

Leading up to the tabling of the Bill in parliament, a media campaign asking the public to "tell their MP to vote for the bill" was launched. PNG women organised themselves into lobby groups to garner support from their MPs to vote for the bill.

The media campaign which was championed by the deputy prime minister and other ministers saw hundreds of women from around the country gather at the parliament house during its voting to show their support.

Led by the then Minister for Community Development the Honourable Dame Carol Kidu with financial and technical support from UN Women, the working group was initially set up in 2010 which included UNDP PNG, AusAID, Women in Politics, Papua Hahine and Women in Business to work on the drafting, lobby and campaign for the bill.

It took over a period of two years since the introduction of the idea in 2009 before the Constitution was changed. This landmark achievement then kicked off the second phase of negotiation for the enabling law or organic law that would specify how the seats would be created including boundaries and electoral changes.

While the country failed to pass the second bill in time for the elections this year, work is still ongoing to ensure the organic law for the 22 reserved seats for women is put in place during the current government's term.

Reference:

UN Women, PNG to have enabling law that will ensure equality, (2 November 2012), <<http://www.unwomen-pacific.org/pages.cfm/news-resources-centre/news/2012/papua-new-guinea-to-have-an-enabling-law-that-will-ensure-gender-equality.html>>

Women petition against vote of no confidence motion in Tonga

In July 2012, Fatakatouhama women's group submitted a petition to the Deputy Speaker of the Legislative Assembly, Lord Tu'iha'ateiho, opposing to the vote of no confidence motion against the Prime Minister and the government.

Signed by over 3600 petitioners throughout Tonga except the Niuas, the petition calls for support of gender equality representation in Parliament.

According to Dr. 'Ana Koloto, Director of USP Tonga Branch, following the 2010 general election no female candidate was

elected into Parliament but when the Hon. Minister of Education Dr. 'Ana Taufē'ulungaki was appointed into Cabinet by the Prime Minister, they knew she could make a difference.

"We push for female candidates to enter politics and with Dr. Taufē'ulungaki in Cabinet she could be the women's voice in Parliament. She can raise women's issues and what impacts them."

Fakatouhama group was established in 2010. It aims to encourage the people of Tonga to carefully consider the importance of electing the right candidates into Parliament.

Reference:

Parliament of Tonga Website, Women petition against vote of no confidence motion in Tonga, (17 July 2012) <<http://www.parliament.gov.to/index.php/news/155-women-petition-against-vote-of-no-confidence-motion>>.

Female candidates miss out in Vanuatu election

None of the 10 women who contested Vanuatu's national election succeeded in winning a seat.

Unofficial counts, as at 12 November 2012, reveal that none of the 52 seats in parliament will go to a female candidate.

Ms Jenny Ligo, one of five women running in the capital Port Vila, said they failed to get the backing of female voters. "We didn't get the support from the community, especially the women of Vanuatu. This is a big blow for women, especially in Vanuatu," she said. Ms Ligo also accused the country's Department of Women and church leaders of not doing enough to change the situation.

Both she and Ms Letty Kaltonga, a candidate for the Labor Party who also ran in Port Vila, have vowed to come up with new strategies in time for the next election in 2016.

A record 346 candidates from 32 parties contested this year's election.

Reference:

ABC News, All female candidates miss out in Vanuatu election, (2 November 2012), available at <<http://www.abc.net.au/news/2012-11-02/an-female-candidates-miss-out-in-vanuatu-election/4348762>>.

High Courts in Solomon Islands and Australia agree that rape in marriage is unlawful

The Solomon Islands High Court is reported to have overturned provisions in the penal code permitting husbands to have sexual intercourse with their wives without their consent. The Solomon Islands Office of the Director of Public Prosecutions brought the case arguing that the provisions were contrary to the Solomon Islands' obligations under the Convention on the Elimination of All forms of Violence Against Women ratified by the Solomon Island Government in May 2002. Read more.

The Solomon Islands High Court decision is consistent with the rejection of an appeal in the High Court of Australia earlier this year that sought to rely on a common law presumption about consent to sexual intercourse within marriage. The High Court of Australia in May 2012 in *PGA v The Queen* [2012] HCA 21 held that the eighteenth century view that a husband could not be guilty of raping his wife because, by marriage, she gave her irrevocable consent to intercourse, was not part of the common law of Australia. The Court held that if it ever had been, it had ceased to be so by 1935. Developments in legislation for divorce, property and voting, had removed any basis for the acceptance of the proposition. A summary of the High Court judgment is here.

Vanuatu Women's Centre Coordinator speaks in Sydney on violence against women

Merilyn Tahī, Coordinator of the Vanuatu Women's Centre spoke at a televised discussion on violence against women, in Sydney on 24th October 2012.

The event was part of the Praxis Discussion Series 2012, connecting to Papua New Guinea, Solomon Islands and Timor-Leste, and was supported by the World Bank and AusAID.

The event was followed by a presentation on approaches to domestic violence in law and policy in Brazil, by Judge Sonia Amaral.

Born and raised in rural Vanuatu, Marilyn Tahī is a prominent activist for women's rights in Vanuatu and the Pacific region. Since 1994, she has worked tirelessly to address violence against women and children. Under her leadership, the Women's Centre has striven to raise awareness of the issue in the country, built a network with three sub-branches, established 40+ committees against violence against women (CAVAWs) around the country, and trained over 300 males as advocates on Women's Human Rights. These include Chiefs of communities, police, youths, and health workers.

Marilyn has held a number of positions in the Vanuatu Government, including as second political advisor in the Department of Foreign Affairs; the Australian High Commission, and various NGOs. In 2009, Marilyn was awarded the 'Women of Courage' award by the USA Government for her work on violence against women and children.

Violence against women continues in every continent, in every country and culture, in every minute of the day. One third of Australian women will experience physical or sexual violence in their lifetime, while the Pacific region has some of the highest rates of domestic violence in the world. According to the 2012 World Development Report on Gender Equality, between 60 and 70 percent of women in Kiribati, Solomon Islands and Vanuatu report experiencing domestic violence.

The statistics are staggering. Many promises have been made but the challenges loom large, at home and overseas.

In Depth...

Women in the Law Final Report



The Women and the Law Final Report will be released in December 2012. It is the first report of its kind for the South Pacific region and represents an important achievement of the South Pacific Lawyers' Association (SPLA) and SPLA Women in the Law Committee.

The Report will be circulated as widely as possible particularly to women's groups and organisations which promote gender equality in the South Pacific region with a view to supporting their work.

At the SPLA Roundtable on 11 July 2011, members discussed the situation faced by female legal practitioners in the South Pacific. It was noted that across the Region there are relatively equal numbers of female and male law school graduates. Enrolment figures for the University of the South Pacific indicated that in 2010 the majority of enrolments were female. The SPLA was concerned that this had not translated to greatly increased numbers of female lawyers, law firm partners, magistrates and judges in countries across the South Pacific.

The SPLA agreed that a detailed analysis of female participation in the legal profession in

member countries was required to determine whether there is a need for affirmative action or further research. Subsequently, a Survey was developed by the SPLA Women in Law Committee which is chaired by the Honourable Ms Ese Apinelu, Attorney-General, Tuvalu, in consultation with the Law Council of Australia Secretariat.

The objective of the Survey was to gather information about women in the legal profession in South Pacific Island countries, to determine whether there is a need for further research and/or affirmative action.

The Survey identified the ratio of female to male graduates, and the number of women in the legal profession in South Pacific Island countries who are:

- lawyers in private practice;
- lawyers employed in the Government or corporate sector;
- members of the law association councils across the Region; or
- judicial officers (judges and magistrates).

The Survey also identified whether there are equal opportunities for females to study law and gain employment; whether there is equal pay; and whether there are any cultural practices that may act as barriers towards equality in the legal profession.

Results of the Survey

There are approximately 582 female lawyers working in the South Pacific Region. The SPLA Needs Survey from October 2011 reported that there are approximately 1,718 lawyers working in the South Pacific Region. Therefore approximately 33.9% of lawyers in the South Pacific are female or 1 in every 3 lawyers across the South Pacific is female.

Of the 582 female lawyers, approximately 308 work in private practice, and 274 work in government/corporate practice. The Needs Survey from October 2011 reported that of the 1,684 lawyers working in the South Pacific, approximately 1,023 are engaged in private practice and approximately 671 are engaged in government/in-house roles. Therefore approximately 30% of the lawyers that work in private practice are female and 40% of lawyers who work in government/corporate practice are female.

The Survey data suggests that jurisdictions where there are the most opportunities for the advancement of women in the legal profession include Norfolk Island, Papua New Guinea, Solomon Islands and Vanuatu.

The Survey data also suggests that there are opportunities to advance the participation of women in judicial officer positions and on law association councils across the South Pacific.

Most survey respondents across the countries of the South Pacific agreed that there is equal opportunity for women and men to study law. This means that male and female students may compete for entry to law school on an equal footing. This does not necessarily mean in practice, however, that female students will be able to study, if they have carer, child-minding, food production or

other responsibilities that prevent them studying.

Every year, the Government of Samoa offers scholarships to support students wishing to enrol in various degrees, including law.

The general consensus across the region is that women are not discriminated against in terms of wages; however no comparative study has been undertaken to substantiate this perception.

Most countries noted that remuneration in government practice is consistent across the board, and that in private practice salaries are based on experience, qualifications and performance, and not on gender. The Nauru Law Society noted, however, that women tend to be channelled into certain positions, particularly in the Public Service, which attract a lesser salary than their male counter-parts.

The Solomon Islands Bar Association noted that men are more likely to be promoted within a few years of employment within the public service compared to women – even though the levels and degrees of experience vary greatly. Further, the promotion process is usually expedited for men compared to women – who most often have to wait for lengthy periods of time (years, in some instances) between when a promotion submission is made to the Ministry responsible for Public Service and when that promotion is actually effected.

Cultural practices

Fiji and Tonga are patriarchal societies. The Fiji Law Society noted that Fiji has been evolving in terms of gender equity, however women may still perceive a “glass ceiling” in terms of career progression. The Fiji Law Society also noted that women’s rights activists are well-represented in the legal profession, and that they contribute significantly to the development of parity for men and women both in the profession and wider society.

In relation to its cultural practices, the Tonga Law Society noted that change will only result if women themselves want the change and actively lobby for it. The last Women in Law Association survey which the Fiji Law Society conducted in 2001 revealed that women were happy with the status quo, particularly in relation to the right of women to register land under the Land Act.

Some of the survey respondents noted that whilst there are no cultural practices that discriminate against women, economic circumstances have resulted in women being channelled into more domestic responsibilities as opposed to being encouraged into high level career positions. This is also due to the lack of familial support mechanisms such as affordable child care and access to maternity leave.

In Nauru, maternity leave is only legislated for public servants. There are no employment laws which ensure maternity leave for women working in the private sector. This remains a barrier for many young women. However today more women are participating in efforts to address the void of women in decision-making roles particularly on a political level.

Where are the Gaps?

The findings of the Survey suggest that it would be useful in future to collect statistics in a broader range of areas, including:

- the number of women in senior positions in private practice, such as those who are law firm partners or barristers;
- the comparable salaries received by men and women in comparable roles;
- the availability and utilisation of services to relieve women in carer roles such as maternity and child care support, aged care, disability services etc.;
- the availability and utilisation of mentors in the legal profession; and
- the use of affirmative action policies and programs to redress gender imbalance in the legal profession.

Recommendations

1. That the South Pacific Lawyers' Association support the further collection of data on:
 - the number of female lawyers in senior positions in government and private practice; and
 - the differences in salary rates between men and women in the legal profession.
2. That the South Pacific Lawyers' Association develop a plan to encourage and support women across the South Pacific to:
 - study law;
 - work in the legal profession; and
 - progress into higher positions in private practice and government.
3. That the South Pacific Lawyers' Association develop a plan to encourage workplaces to:
 - provide in-house child care services ;
 - offer flexible working arrangements for mothers;
 - offer competitive maternity leave conditions; and
 - establish and encourage mentoring relationships between senior and junior women.
4. That the South Pacific Lawyers' Association work with government, workplaces and universities to determine whether Affirmative action measures for women interested in careers in law are needed.

In Depth...

Women and the Pacific Island Forum

The Pacific Islands Forum was founded in August 1971 and comprises 16 independent and self-governing states in the Pacific.

Forum Members are:

- Australia
- Cook Islands
- Federated States of Micronesia
- Fiji
- Kiribati
- Nauru
- New Zealand
- Niue
- Palau
- Papua New Guinea
- Republic of Marshall Islands
- Samoa;
- Solomon Islands
- Tonga
- Tuvalu
- Vanuatu.

According to the Pacific Islands Forum Secretariat, gender is relevant to its work because it determines the different developmental needs and interests of various groups of women, men, girls and boys in member countries. Without giving due emphasis to gender analysis, regional policies and programmes may not benefit Pacific people equally, with the needs and interests of women and girls more likely to be overlooked.

A gender approach takes into account the different knowledge, roles and responsibilities of women and men and recognises that, to affect long-term positive

change in the conditions of communities and nations, actions and attitudes about men's and women's roles and rights in society must change. Thus, gender is a critical and cross-cutting consideration in development policy and planning. Failure to strive for gender equality creates an opportunity cost ill afforded by Forum Island Countries, as their development is reliant on maximising the potential of all its human resources.

43rd Pacific Islands Forum

The 43rd Pacific Islands Forum was held in Rarotonga, Cook Islands, from 28 to 30 August 2012 and was attended by Heads of State and Governments of:

- Australia
- the Cook Islands
- Federated States of Micronesia
- the Republic of Kiribati
- the Republic of Nauru
- New Zealand
- Niue
- Papua New Guinea
- Republic of the Marshall Islands
- Samoa
- Tonga
- Tuvalu.

The Solomon Islands and the Republic of Vanuatu were represented by their respective Deputy Prime Ministers. The Republic of Palau was represented by its Minister of Justice.

New Caledonia and French Polynesia attended the formal session as Associate Members.

American Samoa, Timor-Leste, Tokelau, Wallis and Futuna, the African, Caribbean and Pacific Group, Asian Development Bank, the Commonwealth Secretariat, the United Nations (UN), the Western and Central Pacific Fisheries Commission (WCPFC) and the World Bank attended as Observers.

The Forum Retreat was held on Tapuaetai Island in Aitutaki.

Pacific Leaders Gender Equality Declaration

At the 43rd Pacific Islands Forum, the Leaders of the Pacific Islands Forum brought new determination and invigorated commitment to efforts to lift the status of women in the Pacific and empower them to be active participants in economic, political and social life.

Leaders expressed their deep concern that despite gains in girls' education and some positive initiatives to address violence against women, overall progress in the region towards gender equality is slow. In particular Leaders are concerned that women's representation in Pacific legislature remains the lowest in the world; violence against women is unacceptably high; and that women's economic opportunities remain limited.

Leaders understand that gender inequality is imposing a high personal, social and economic cost on Pacific people and nations, and that improved gender equality will make a significant contribution to creating a prosperous, stable and secure Pacific for all current and future generations.

To realize this goal, Leaders commit with renewed energy to implement the gender equality actions of the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), the Millennium Development Goals (MDGs), the Revised Pacific Platform for Action on Advancement of Women and Gender Equality (2005 to 2015); the Pacific Plan; the 42nd Pacific Island Forum commitment to increase the representation of women in legislatures and

decision making; and the 40th Pacific Island Forum commitment to eradicate sexual and gender based violence.

To progress these commitments, Leaders committed to implement specific national policy actions to progress gender equality in the areas of gender responsive government programs and policies, decision making, economic empowerment, ending violence against women, and health and education.

Leaders called on Development Partners to work in a coordinated, consultative and harmonised way to support national led efforts to address gender inequality across the region in line with the Paris Declaration on Aid Effectiveness and Cairns Compact on Strengthening Development Coordination in the Pacific. Leaders also requested Development Partners to increase financial and technical support to gender equality and women's empowerment programs, and to adopt strategies within their programs to provide employment and consultation opportunities for women in the planning and delivery of development assistance to the region.

Leaders agreed that progress on the economic, political and social positions of women should be reported on at each Forum Leaders meeting. They directed the Forum Secretariat, with the support of the Secretariat of the Pacific Community and Development Partners, to develop, as part of the Pacific Plan performance monitoring framework and annual report to Leaders on country progress in implementing the above commitments and moving towards achieving greater gender equality.

Gender Responsive Government Programs and Policies:

- Incorporate articles from the Convention for the Elimination of all forms of Discrimination against Women (CEDAW) into legislative and statutory reforms and policy initiatives across government.
- Support the production and use of sex disaggregated data and gender analysis to inform government policies and programs.

- Strengthen consultative mechanisms with civil society groups, including women's advocacy groups, on key budget and policy issues of national and sub-national governments.

Decision Making:

- Adopt measures, including temporary special measures (such as legislation to establish reserved seats for women and political party reforms), to accelerate women's full and equal participation in governance reform at all levels and women's leadership in all decision making.
- Advocate for increased representation of women in private sector and local level governance boards and committees (e.g. school boards and produce market committees).

Economic empowerment.

- Remove barriers to women's employment and participation in the formal and informal sectors, including in relation to legislation that directly or indirectly limits women's access to employment opportunities or contributes to discriminatory pay and conditions for women.
- Implement equal employment opportunity and gender equality measures in public sector employment, including State Owned Enterprises and statutory boards, to increase the proportion of women employed, including in senior positions, and

advocate for a similar approach in private sector agencies.

- Improve the facilities and governance of local produce markets, including fair and transparent local regulation and taxation policies, so that market operations increase profitability and efficiency and encourage women's safe, fair and equal participation in local economies.
- Target support to women entrepreneurs in the formal and informal sectors, for example financial services, information and training, and review legislation that limits women's access to finance, assets, land and productive resources.
- Ending violence against women.
- Implement progressively a package of essential services (protection, health, counselling, legal) for women and girls who are survivors of violence.
- Enact and implement legislation regarding sexual and gender based violence to protect women from violence and impose appropriate penalties for perpetrators of violence.

Health and Education

- Ensure reproductive health (including family planning) education, awareness and service programs receive adequate funding support.
- Encourage gender parity in informal, primary, secondary and tertiary education and training opportunities.

Australia's announcement

At the 43rd Pacific Islands Forum, Australian Prime Minister, the Honourable Ms Julia Gillard, announced a new 10-year \$320 million Australian government initiative to help improve the political, economic and social opportunities of Pacific women.

This initiative, Pacific Women Shaping Pacific Development, will provide practical support for change at national and local levels. It will work in partnership with governments and civil society groups across the region to

Prime Minister Julia Gillard has announced a new 10-year \$320 million initiative to help improve the political, economic and social opportunities of Pacific women. Photo: AUSPIC



develop policy changes needed to support gender equality.

The initiative will also directly benefit communities by supporting better local services, improving local markets, and increasing education and awareness through churches and other organisations. This work will help change perceptions about women's and men's roles in communities, and assist women to participate as equals in day-to-day life.

This 10-year initiative will include measures such as:

- Provision of mentoring and training to female members of parliament and candidates to help women influence national and local politics and run in elections;
- Making markets safer places for women to work and providing business training and better access to finance for female vendors, benefiting more than 30,000 female market vendors; and
- Helping Pacific women to feel safer in the community, by expanding services for survivors of violence. This will include an increase in health services, crisis centres and shelters, especially in rural areas.

PIF launches first ever Pacific Action Plan on Women, Peace and Security

On 18 October 2012, the Chair of the Pacific Islands Forum and Prime Minister of the Cook Islands, the Honourable Mr Henry Puna launched the first ever Pacific Regional Action Plan on Women, Peace and Security.

Speaking at the launch ceremony held at the Pacific Islands Forum Secretariat in Suva, Fiji, the Forum Chair, the Honourable Mr Puna said "In the short history of our region, the women and girls of the Pacific have suffered as victims of armed conflicts and social unrest ... Despite this, women continue to play leadership roles and become strong forces in building peace."

The Honourable Mr Puna acknowledged the work and contribution of Ms Ethel Sigamanu (Solomon Islands), Ms Helen Hakena (PNG) and Ms Sharon BhagwanRolls (Fiji) to national and regional activities on peace building. He noted that they represented the many women and girls of the region who have and continue to contribute to peace building processes of our region.

"While you many not receive near-enough recognition or acknowledgement of your hard work and commitment to a peaceful and secured Pacific, you have the sincere appreciation of a grateful region," said the Hon. Puna.

Also speaking at the Launch of the Regional Action Plan, Secretary General of the Pacific Islands Forum Secretariat, Tuiloma Neroni Slade explained that, "The focus of the Regional Action Plan on Women, Peace and Security is on utilising and enhancing the inherent capabilities of women as peace builders, including at state institution levels, to provide a secure and conflict free environment for our communities."

"Two of the three focal areas of this Action Plan will seek to increase the visibility and active participation of women in conflict prevention and peace building activities, including by increasing women's engagement with and in security sectors," said Mr Slade

The third focal area seeks to ensure the necessary frameworks of protection for women and girls during humanitarian crises and transitional and post conflict situations.

"This last focal area is necessary because we know from international experience, including our own regional experiences that in times of crises and conflicts, the vulnerabilities of women and children are exacerbated," said Mr Slade.



Chair of the Forum and the Cook Islands PM, Hon. Henry Puna (Photo Courtesy of the Pacific Islands Forum)

Challenges and opportunities

Women in the Pacific

Did you know?

Women hold just **5%** of the Pacific's parliamentary seats.



But the **greater the number of women** in parliament the **lower the level of corruption**.

Every **1% increase** in female parliamentary representation **raises economic growth by 0.16%**

More than **60%** of women in some Pacific countries have experienced **physical or sexual abuse**.

Many women injured as a result of domestic violence now have a permanent disability. This can further limit their participation in **social, political and economic life**.

Women who are free from violence contribute to **economic growth, better health outcomes, gain more leadership and education opportunities**.

Women are excluded from employment opportunities all across the globe.

The Asia-Pacific region **loses US \$47 billion each year** due to women's limited access to the job market.



Agriculture output could

increase by up to 4%

if production resources were distributed evenly between men and women ... putting **more food** into the mouths of **families and communities**

This benefits all of society.

In Profile...

Taoing Taoba, Senior Partner, TA Law Firm, Kiribati

When people need legal assistance but cannot pay for the services they are usually referred to the Office of the Peoples Lawyer who provides these services free of charge. However, even though I am a private practitioner who requires payment for my services, if a case involves a child, especially a child that is still being breast fed, I will assist the mother without charging. I do this because mothers of breast fed children should not surrender their rights over the child and the right of their children to good health because of financial problems or because free service are not available at a time when it is needed.

I am assisted by a female magistrate who, when she comes across these types of cases, will refer them to me. Together we are able to ensure that children who are the victims of their parents' dispute have access to legal assistance at times when such assistance would not be available, especially considering that most disputes between the parents occur at odd times such as at night or on the weekend.

The Law Society of Kiribati has been trying to get all the lawyers in Kiribati to become members of the Law Society. This has proved very difficult and those who have become members will often not show up for meetings arranged by the Council. After being selected to become a Council Member of the Law Society I spoke to members who were not turning up to meetings or who have never paid any membership fees to become a member. This helped me to realize that most of the meetings that were scheduled were inconvenient and that those who have not paid their membership fee failed to pay because the Council has not been able to convince them why it is necessary to become a member while some just don't know who and/or where to go to.

I have been able to convince some of the lawyers that it is really important that they should join. Memberships and members involvement in meetings has started to increase since these discussions took place.

Ms Barina Waga, Principal Legal Officer, Department of Justice and Border Control, Nauru

Barina Waga is the Principal Legal Officer with the Department of Justice and Border Control in Nauru. Ms Waga is Nauru's first female lawyer.

In 2006, Ms Waga received an Australian Regional Development Scholarship through the Australia Awards for Development to complete a Bachelor of Law degree at the University of the South Pacific in Vanuatu.

The scholarship provided Ms Waga with the opportunity to meet established legal representatives, law lecturers and academics, and most importantly other lawyers from across the Pacific.

More information about Australian Regional Development Scholarships is available from the AusAID Website at <http://www.aid.gov.au/scholar/pages/studyout.aspx>

In Profile...

Interview with Ms Toepenina (Nina) Hekau, Crown Counsel, Niue Crown Law Office

When did you graduate law school?

LLB - 2003 and did my postgrad diploma in legal practice in 2004 and admission to the Fiji Bar.

LLM (International Law) - 2008

Where did you study?

LLB 2000-2003 - University of the South Pacific (USP), Vanuatu

PDLP 2004 - USP, Fiji

LLM - University of New South Wales (UNSW), Sydney, Australia

Were there many other women in your class?

Yes there were a good number of women in both my undergrad and postgrad classes. However at the postgrad level in Sydney I was the only woman from the Pacific in all of my classes and most probably the whole faculty in 2007.

Why did you choose to study law?

I wasn't too sure of a career path and my clever mother decided law was the best way to go.

When did you start with the Crown Law Office?

2004 to the present....I took leave in 2007 to do my masters.

What does your role entail?

Providing legal advise to the whole of Niue Government - Cabinet of Ministers, Niue Assembly, Office of the Speaker and all government departments. The role also includes legal drafting, national and international negotiations, advisor to the Bills Committee and other House Committees from time to time and representation at both regional and international meetings and forums.

Did you have a good support network when you started (women/men)?

When I first started there were only 4 other qualified lawyers on the island and once I got the basics and the government procedures and protocol ...the rest of it was learning as I went about it. At first it didn't feel too far from my school days but whenever I was stuck I used my colleagues from school working in specialized areas for assistance and this was a great form of support.

What has been your biggest achievement in your career so far?

I work in an office of only 2 lawyers (my boss & I) so everything achieved is a big achievement having to provide legal advice to all of government. But some of my self-fulfilment experiences is when a Bill I've been working on for years finally got passed through parliament and recently reviewing and concluding a major contract with a regional organisation involving a lot of \$\$\$ in 1 week and immediately after another contract with an international partner the next week. Both contracts are for the benefit of the people and it was crucial that everything is covered to avoid any future surprises or misunderstanding.

I was also part of a team undertaking Niue's national consultation on cybercrime. We conducted sessions with the public, schools and public servants and the people were very receptive and understood the importance of the work we were doing. The students surprised me with their interesting questions about cybercrime which showed their interest in the work we were doing.

What are your plans for the future?

My plans vary from time to time but I use every opportunity as a learning experience and hopefully all of those experiences will lead to a fulfilling life for myself and those around me.

Any advice for female law students?

No matter how much good advice you get from others or self-empowerment books you read or inspiring people around you, the only person that will really make things happen for yourself is you.

In Profile... Lesley Fleming, Victorian Bar

By Mr Brian Jemejeme, Journalist, Papua New Guinea Law Society

Ms Lesley Fleming, a former barrister at the Victorian Bar and current Magistrate in Victoria, reflects positively on her experiences of delivering training workshops to lawyers in PNG.

In her 25 years of working in the legal profession, Ms Fleming has travelled to many destinations including Papua New Guinea. Ms Fleming enjoys going to Papua New Guinea and loves the people that she encounters when she visits.

"I love PNG. I am always delighted when I hear your national anthem and I wish I could hear it over and over again, it is so beautiful, I'm not sure if it's the words or the music and I think it's the way you sing it with such superb voices".

"I fall in love with PNG every time I come. It is a wonderful place and the people are so friendly. I never want to leave when I come here," she said.

For the past 14 years Ms Fleming has been a Magistrate with the Magistrates' Court of Victoria. Before that she was a barrister for 10 years.

Ms Fleming has visited PNG 4 times. She was the first female instructor to go to Papua New Guinea with the Victorian Bar team in 1997. Her most recent trip was in June 2012 to deliver the 12th Civil and Criminal Advocacy Workshop.

Ms Fleming was among eight members from the Victorian Bar that went to PNG and in collaboration with the Legal Training Institute (Local Bar). The team ran a two week advocacy workshop on two major cases (one Civil case and one Criminal case). Ms Fleming explains the difference between the two types of cases:



Middle: Lesley Fleming

"In Criminal Law the burden of proof is on the Prosecution to prove beyond a reasonable doubt that the Accused is guilty. It is a high threshold and it should be because a person's liberty is at stake. The burden is less onerous in Civil cases where the test is on the balance of probabilities."

Ms Fleming explains that feeling nervous when standing in front of a judge in the Court house is perfectly normal, it would be worrying if you do not feel nervous.

"A good advocate feels nervous because there's so much dependant on the outcome. If your client is facing the death penalty then there is clearly a lot at stake. You will feel nervous because your client is relying on you

to defend him and get the best outcome for him... Nerves should not interfere with your performance and a good advocate may be a bag of nerves but a good advocate manages those nerves so that the client, the accused or the Plaintiff gets an excellent advocate and the court gets a persuasive advocate.”

Ms Fleming spoke highly of the trainees that participated in the workshop.

“The trainees here are dedicated. I’ve never seen more talented and hardworking trainees. The future of PNG is in good hands if these young people become the next judges, chief justices, attorneys general because they believe in the independence of the Judiciary and the separation of powers and the importance of the law and the presumption of innocence.”

When asked whether she might return, Ms Fleming said that she would be more than happy to return in 2013 to see how the trainees progress.

“I hope I will return. It’s not always up to me when I can come, but I certainly hope so because I love this country and I love the people , the trainees are like my children”.

Local Bar and Victorian Bar Photoshoot after a workshop.



In Profile...

Lisa Reheman Kaiyo, Law Student, Papua New Guinea

By Brian Jemejeme, Journalist, Papua New Guinea Law Society



Lisa Reheman Kaiyo, a female law student at the University of Papua New Guinea with bloodline of West Sepik and Morobe, aims to be a successful defense lawyer when she graduates at the end of the year (2012). "I want to be a good defense lawyer when I graduate from the Law school," said Lisa when asked why she is studying law.

Lisa was one of the many female law students that attended the 12th Civil and Criminal Advocacy workshop held in Port Moresby in June 2012.

She said the people running advocacy programs put in a lot of time, effort and energy to shape a practitioner into a very good lawyer and she was privileged not to miss the two weeks workshop.

Lisa's commitment to becoming a successful defensive lawyer was demonstrated by her attendance and active involvement in the

intensive two week advocacy workshop. She said the workshop was an important part of her study to help her reach her goal of becoming a successful defense lawyer.

Lisa hopes to join the Office of the Public Solicitors when she graduates. The Office of the Public Solicitor provides legal assistance to persons entitled to legal aid charged with offences that carry a minimum penalty of two years and advice and civil assistance in all courts.

She encourages upcoming practitioners to take courage and determination in their practising career and not to play around and take things and study for granted. "I encourage them to be firm in their decision and must participate in future advocacy programs as it really helps a lot," she said.

Lisa said the workshop was very challenging but that she now feels that when it comes time for her to stand in front of a Judge she will be able to present her case confidently.



Top: Lisa stands to confirm her intention to be a better defensive lawyer in the future.

Bottom Right: Lisa and her friend relaxing. Both will be lawyers soon.

In the spotlight...

First Pacific Island Law Officers' Network (PILON) Advanced Litigation Skills Programme

By Donna Llewell

The first PILON Advanced Litigation Skills programme for government lawyers of the South Pacific was a great success.

Held in Auckland, from 19–23 March 2012, the programme catered for 17 Pacific lawyers of six years or more practical legal experience from 10 nations. It was directed by Robert Lithgow QC and faculty members included District Court Judge Brian Knox from New South Wales, Deputy Magistrate Emma Garo from the Solomon Islands and a number of other Queens Counsel and senior barristers from New Zealand.

Thirteen of the participants had previously undertaken the PILON Introduction to Litigation Skills programme. That put them in good stead to understand the methodology of the NITA (US National Institute of Trial Advocacy) training and prepared them for

the intensity of the week-long programme. The style of learning through doing, critiquing, followed by video review is the same as the introductory course. Both courses are derived from programmes run by the New Zealand Law Society for New Zealand lawyers.

The advanced course focusses on a single case throughout the whole week. The scenario is close to the worst fears of Pacific nations and perhaps close to the hearts of many Pacific lawyers - the failed salvage attempt, and subsequent grounding of and oil pollution from a super tanker.

The case is based upon that which followed the grounding of the AMOCO Cadiz. Although examined as a civil case; breach of contract and negligence against the shipbuilders and the salvage tug owners, it

Attendees of the programme.



could equally be a criminal case under most nations' maritime law. The witnesses from the NZ Transport Accident Investigation Commission (TAIC) were master mariners and the engineers from preeminent engineering practice BECA acted as experts well familiar with the real scenarios presented. Examination-in-chief and cross-examination took up most of the in-court time. Participants also prepared and presented both an opening and closing submissions for their case.

The closing graduation ceremony was attended and addressed by NZ's immediate past Governor-General, Sir Anand Satyanand GNZM QSO. This was particularly apt because during his time on the bench he had been a regular faculty member for both NZLS and PILON litigation skills programmes.

This advanced programme has clearly demonstrated the growing capacity and skills of Pacific lawyers and the demand for litigation skills training at this level. Thanks to the NZ Crown Law Office and the NZ Law Society for administering and hosting the programme and also to the NZ Ministry of Foreign Affairs and Trade for funding.

NZ Crown Law will now continue its efforts to secure long-term funding commitments for future PILON litigation skills programmes

for both basic and advanced level. It is envisaged that future development of these programmes for Pacific lawyers will see new hypothetical cases more aligned to subjects and characteristics of cases commonly dealt with in the Pacific region; as well as the development of Pacific participants enabling them to join the faculty teams for future programmes.

The success of NITA style litigation courses in the Pacific has been the result of the efforts and tenacity of many. Foremost amongst those was the contribution of the late Helen Aikman QC who died tragically early in February this year. Helen lived on campus at USP as her father was the first Vice-Chancellor. She graduated from USP and lived, worked and married in the Pacific.

Tributes to Helen's efforts were made by the Robert Lithgow QC at the commencement of the course and by Sir Anand in his remarks to the participants at the graduation ceremony.

A basic level PILON litigation course is under consideration for 2013.

*Donna Llewellyn is currently a solicitor and Volunteer Service Abroad legal adviser in the Division of Lands and Physical Planning in Bougainville. Prior to commencing her VSA posting she was Crown Counsel in the Crown Law Office, New Zealand.

Attendees at the graduation lunch.



In the spotlight...

Centre for Asia Pacific Pro Bono Update

Since the launch of the Centre for Asia Pacific Pro Bono (CAPPB) in July 2012, the CAPPB Secretariat has been busy coordinating a range of projects across a range of countries in the Asia Pacific region.

Current projects include:

- Ashurst Australia is providing non-litigious complaints assistance to Transparency Vanuatu's Advocacy and Legal Advice Centre.
- A private practitioner is providing advice on mineral ownership to the Land Owner Advocacy Support Unit (LALSU) at the Public Solicitor's Office in the Solomon Islands.
- In late November 2012, the Victorian Bar Association will provide advocacy skills and professional ethics training to legal staff employed by the Papua New Guinea Office of the Solicitor-General and a small number of private practitioners. Under this training exercise, 30 government lawyers and 10 private lawyers will receive the benefit of the training from the Victorian Bar Association.
- In December 2012, the Australian Bar Association will provide training to the Bangladesh Bar Council.
- In 2013, DLA Piper will provide training and ongoing mentoring to the Nauru Public Defender and other members of the legal profession. The training will be provided in four modules.

The CAPPB now has a whole range of Registered Providers that are willing and ready to provide pro bono assistance in the Asia Pacific region.

Areas of expertise include:

- Advocacy
- Domestic Violence
- Environment Law
- Family Law
- Financial Services Law
- Intellectual Property Law
- International Arbitration Law
- Law and regulation development and reform
- Legal Education and Training
- Mining and Mineral Resources Law
- Trade and commerce law.

The challenge is sourcing projects and finding the people that need pro bono assistance the most.

If you have any ideas for projects or know of someone or an organisation that requires pro bono assistance, please contact the CAPPB Secretariat at cappb@lawcouncil.asnau

Coming Up...

LAWASIA Conferences

LAWASIA warmly invites the interest of SPLA members in its Asia-Pacific-based events. Each event assembles expert speakers and delegates from around the region, providing networking and educational opportunities in a collegial and stimulating environment.

The 4th LAWASIA Legal Professional Indemnity Insurance and Risk Management Conference (with Law Society of Hong Kong) has been postponed until September 2013 (was originally planned for September 2012).

National Access to Justice and Pro Bono Conference 2013

The National Access to Justice and Pro Bono Conference 2013 will be held in Melbourne, Australia at the Grand Hyatt on Thursday 21 – Friday 22 March 2013.

The National Access to Justice and Pro Bono Conference 2013 will bring together prominent Australian and international speakers to discuss access to law and legal services under the broad theme of 'communicating justice'.

The Conference aims to bring together lawyers and others from the legal assistance sector and government to examine recent Australian and international developments, analyse research, create opportunities for collaboration and to promote access to justice through reform and best practice.

The National Access to Justice and Pro Bono Conference 2013, which returns to Melbourne, is a partnership between the Law Council of Australia, the National Pro Bono Resource Centre and Law Institute of Victoria.

Registrations will open soon.

Visit: <http://www.a2j13.com.au/About-the-Conference>

IPBA 2013 Conference

The 23rd IPBA Annual Conference will be held in Seoul from 17-20 April 2013.

Seoul is one of the most dynamic cities in the world. It has been the capital of Korea for hundreds of years and yet it continues to evolve as one of the largest metropolitan cities in Asia. This vibrant city will provide the backdrop for a conference themed "Dynamic Asia - New Opportunities & Challenges for Law & Business." In recent decades the Asia Pacific region has experienced rapid growth giving rise to unparalleled opportunities and challenges. Over the four days of the conference, delegates will enjoy informative and in-depth discussions of current legal and business developments in Asia while expanding their professional networks in the special atmosphere of collegiality for which the IPBA is justly celebrated.

Early Bird Registration: If you Register before 20 November 2012 you can save up to USD200.

Visit www.ipba2013seoul.org

Common Challenges - Common Solutions: Commonwealth, Commerce and Ubuntu

The Common Challenges Conference will be held in Cape Town South Africa from 14 April 2013 - 18 June 2013.

Ubuntu is a South African term denoting the key values of humaneness, social justice,

fairness and conformity to basic norms. It resonates with the Commonwealth's values of human rights, democracy, the rule of law and good governance.

The conference will highlight the legal, socio-economic and commercial challenges faced by the legal profession in Commonwealth jurisdictions and provide an opportunity to exchange information and learn from this.

Sponsorship and exhibition opportunities are available, as well as exciting social events, including post-conference tours and a gala dinner under the African skies.

GSTF Annual International Conference

The GSTF Annual International Conference will be held in Singapore from 17 June 2013 - 18 June 2013.

The conference theme is Law, Regulations and Public Policy. For more information visit: <http://www.law-conference.org/index.html>



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LAW SOCIETY

The South Pacific Lawyers' Association was established in 2007 by the International Bar Association in partnership with the Law Council of Australia and the New Zealand Law Society. The South Pacific Lawyers' Association exists to assist developing law societies and bar associations in the South Pacific and to promote the interests of the legal profession in the South Pacific. Please visit www.southpacificbas.org for more information. *newSPLAsh* is produced on behalf of the South Pacific Lawyers' Association by the Law Council of Australia. For all enquiries, or to submit articles to *newSPLAsh*, please contact Nicole Eveston, phone +61 2 6246 3751 or email nicole.eveston@lawcouncil.asn.au