



South Pacific
LAWYERS ASSOCIATION

Supporting the legal profession in the South Pacific

Steering Committee Report

2007–2011

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Message from the Steering Committee Chair

It is with great pride that I commend to you the *South Pacific Lawyers' Association Steering Committee Report 2007-11*, marking the culmination of the first stage in the evolution of the South Pacific Lawyers' Association (SPLA) as the peak regional representative body for the South Pacific legal profession. As we embark upon the next phase of development, it is worthwhile pausing to reflect on the aspirations and achievements of the SPLA and its Steering Committee over the past four years.

Since the 2007 Roundtable in Brisbane at which 21 lawyers from 11 South Pacific countries voted to establish the SPLA, it has been clear that despite our many differences, the challenges facing the legal profession are shared throughout the region. Countries also differ in the relative strength of and adherence to the rule of law. What is clear is that lawyers play a vital role in maintaining the rule of law, which in turn is essential for the social, political and economic wellbeing of countries in our region. Investors will not risk development in countries if they have no confidence that commercial disputes will be fairly and independently resolved by an independent judiciary and a well-run legal system. Well-qualified and regulated practitioners are a vital component of this. Lawyers are access to justice.

The SPLA has already developed a joint supportive approach to dealing with issues that confront our profession. This can only strengthen in time and will benefit the region through a stronger justice system.

A common issue is the need for ongoing legal education for practitioners. This will enable them to keep up-to-date with changes in the law and also enable lawyers to specialise in areas of interest to them. The community is the beneficiary of well-educated lawyers.

Effective regulation is also vital for a well-administered legal system. Lawyers are in a relationship of confidence and trust when they deal with a client. That is so whether the client is a large corporation or an individual. Lawyers who breach their duties within this relationship need to be assisted to honour their duties to the client and the court. This sometimes involves education to help them to administer their practices better. Those who refuse to respect the trust and confidence of their clients should be subject to disciplinary proceedings. Such regulation gives the community confidence in the integrity of the profession.

The SPLA seeks to promote a regional identity for the South Pacific legal profession and already plays an important role in facilitating the exchange of ideas, information and resources among its member law societies and bar associations. We can work together in the region to achieve a stronger, more effective legal profession. By sharing resources and responding to the needs of each member country in the region, the work of the SPLA will benefit the legal profession and, in turn, the communities in which they practise.



W. Ross Ray QC

Chair

History: Establishment of the South Pacific Lawyers' Association

The South Pacific Lawyers' Association (SPLA) (formerly South Pacific Bars' Secretariat) was established in 2007 by the International Bar Association (IBA) in partnership with the Law Council of Australia (Law Council) and the New Zealand Law Society 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.

The origins of the Association can be traced back to 2002 when, at the initiative of the then Chair of the Law Council's International Law Section, Russell Miller AM, the Law Council with the generous support of AusAID, helped coordinate the IBA's Pacific Leaders' Forum in Fiji in partnership with the Fiji Law Society and the New Zealand Law Society. This meeting brought together bar leaders from 15 South Pacific countries and helped to identify the scope of support being provided to the profession in the region and the need for better coordination in the delivery of that support.

Development of the Secretariat

Building on the outcomes of the Pacific Leaders' Forum and a proposal by Mr Russell Miller, the Law Council, through its International Law Section, commenced work on the development of a detailed proposal to the IBA for the establishment of a "South Pacific Bars' Secretariat". The proposal was supported by the then President of the Fiji Law Society, Mr Graham Leung, and the then President of the New Zealand Law Society, Mr Chris Darlow.

The proposal received formal endorsement from the IBA during 2006, and in February 2007, the IBA Education Trust provided an initial grant of \$25,500 to the Law Council to establish a Secretariat for developing law societies and bar associations in the South Pacific. In line with the proposal, the anticipated functions of the Secretariat were to:

- be a clearing house for assistance currently provided to the legal profession in the South Pacific region;
- identify existing support programs provided by the Law Council and other Australian organisations in order to better coordinate and publicise those programs and develop links with those islands in need of but currently without access to support programmes;

- facilitate access to contacts and experts from the profession within Australia when assistance is required or requested in specialised areas of the law;
- undertake needs analyses to identify assistance that might be provided to the legal profession in the South Pacific region and identify how these needs might be met; and
- design and maintain a website linking legal professional associations in the South Pacific, the IBA, the Law Council and its constituent bodies and other participants.

It was anticipated that the SPLA's functions might eventually be extended to also:

- explore opportunities to provide increased liaison and support to and between legal professional associations, in particular in relation to information resources and legal education;
- provide support for law reform and emerging issues within the Pacific region, and assist with the analysis of legal and public policy;
- provide support for and access to proforma rules and regulations governing the legal profession, such as practising rights and restrictions, model conduct rules, training requirements and complaints handling; and
- provide further support in relation to access to justice issues.

South Pacific Forum and Legal Services Roundtable

To ensure that the Secretariat would meet needs identified by its intended constituency, the Law Council coordinated the 2007 South Pacific Forum and Legal Services Roundtable to provide an opportunity for Bar Leaders in the Pacific to discuss collective interests and challenges and the possible role of a peak regional association.

The South Pacific Forum was held in Australia from 27 August to 4 September 2007, bringing together 21 delegates from 11 countries. The Forum comprised:

- a) a 12-day program covering meetings and professional visits in Sydney, Canberra, Melbourne and Brisbane;

- b) participation in a separate and discrete Rule of Law Conference, which was held in Brisbane and co-sponsored by the Law Council, the Queensland Law Society, the Queensland Bar Association and LAWASIA; and
- c) a Roundtable held at the conclusion of the Forum between South Pacific law society representatives and Law Council and New Zealand Law Society representatives.

At the South Pacific Roundtable, held in Brisbane on 2 September 2007, the following issues were identified as the key challenges for South Pacific legal practitioners:

- Maintaining a high level of professional and ethical standards;
- Access to online materials at a reasonable cost;
- Continuing Legal Education;
- Records keeping;
- Court administration, including:
 - ◆ Development and management of precedents; and
 - ◆ Records keeping and file registers;
- Developing a database of Australian / South Pacific lawyers with particular professional skills;
- Assistance with disciplinary issues and admission procedures;
- Strengthening links within law associations so that the roles and functions could be better performed—it was noted that most work done was performed by volunteers;
- Administration and management of law societies;
- Improving linkages with law faculties in Australia and New Zealand;
- Rule of law; and
- Training of lawyers.

Many of these issues and initiatives have consistently remained at the forefront of the SPLA's agenda over the subsequent years.

Establishment of the Steering Committee

At the Roundtable, representatives of the participating legal professional associations voted unanimously to establish a Steering Committee to oversee the development of the SPLA, including identifying key functions and objectives for the Association. It was agreed that the Steering Committee would comprise representatives from the:

- Law Council of Australia;
- Law Society of New Zealand;
- Papua New Guinea Law Society;
- Fiji Law Society; and
- two representatives from smaller South Pacific law societies.

Nominations for membership of the SPLA Steering Committee were subsequently received from representatives of the Cook Islands, Solomon Islands, Samoa, Kiribati and Tonga, and on 22 April 2008, representatives from the Samoa Law Society and the Solomon Islands Bar Association were elected to the Steering Committee.

The Steering Committee currently comprises:

- Mr Ross Ray QC, Former President, Law Council of Australia (Chair);
- Mr Dorsami Naidu, President, Fiji Law Society;
- Mr John Marshall QC, Former President, New Zealand Law Society;
- Mr Kerenga Kua, President, Papua New Guinea Law Society;
- Mr Raymond Schuster, President, Samoa Law Society (Mr Schuster replaced Mr Jerry Brunt, former President, Samoa Law Society, in September 2010); and
- Mr Rodney Kingmele, President, Solomon Islands Bar Association.

Meetings of the SPLA Steering Committee

The SPLA Steering Committee has met quarterly since its formation in 2008 (ten teleconferences and three face-to-face meetings) in addition to meetings of sub-committees and ad hoc meetings on specific issues.

First annual meeting

On 19 July 2008, the first face to face meeting of the SPLA Steering Committee took place at the conclusion of the South Pacific Law Conference in Nadi, Fiji. The Steering Committee discussed a comprehensive agenda on the role and function of the Secretariat and its key objectives. The Committee resolved that the priority areas for work by the SPLA would be to:

- a) Implement continuing legal education programs in Papua New Guinea and Fiji as pilot programs for future programs to be based in regional centres;

- b) Implement complaints and discipline handling assistance programs in Fiji and Papua New Guinea to assist local law societies to resolve outstanding complaints against practitioners; and
- c) Liaise with the Pacific Islands Law Officers Network to evaluate the feasibility of developing and implementing Pacific model legal conduct rules.

Second annual meeting

The second face to face meeting took place on 17 September 2009, when the six members of the SPLA Steering Committee attended the Australian Legal Convention in Perth, Australia. At that meeting, the Steering Committee endorsed a proposed Constitution to frame the future development of the Association. The meeting was followed by a Bar Leaders' Forum as part of the Australian Legal Convention on 19 September 2009, which Steering Committee members attended as Presidents of their respective law societies and bars.

Third annual meeting

A third face to face meeting was held in Brisbane, Australia on 27 August 2010, when members attended the 3rd National Access to Justice and Pro Bono Conference. At that meeting, the Steering Committee discussed key priorities for the SPLA in 2010-11 which included the need to:

- a) Identify resource requirements of developing law societies and bars in the South Pacific;
- b) Identify key areas of Continuing Legal Education required by South Pacific lawyers;
- c) Secure future funding sources for the SPLA, including through Australian and New Zealand government agencies;
- d) Develop robust complaints and discipline handling policies and procedures within the legal profession; and
- e) Further develop the SPLA website as a resource and tool for members.

Constituent Members

As at 1 July 2011, the SPLA comprised the following constituent members:

- ▶ the Cook Islands Law Society;
- ▶ the East Timor Bar Association;
- ▶ the Fiji Law Society;
- ▶ the Kiribati Law Society;
- ▶ the Law Council of Australia;
- ▶ the Law Society of New Zealand;
- ▶ the Nauru Law Society;
- ▶ Niue and Tuvulu;¹
- ▶ the Norfolk Island Bar Association;
- ▶ the Papua New Guinea Law Society;
- ▶ the Samoa Law Society;
- ▶ the Solomon Islands Bar Association;
- ▶ the Tonga Law Society; and
- ▶ the Vanuatu Law Society.

¹ The practitioners of Niue and Tuvulu are represented by volunteer members of those professions and do not have a representative professional association.

SPLA Projects

The primary objective of the SPLA over the past several years has been to develop a profile within the South Pacific region with private practitioners, with peak legal professional associations, with relevant government ministries, and with donor agencies. This objective has been achieved by pursuing targeted initiatives in five key areas:

1. Supporting reforms to professional and ethical standards and complaints and discipline handling;
2. Strengthening Continuing Legal Education and professional development services;
3. Developing tools to promote regional linkages and information sharing;
4. Conducting a survey of the needs of member law associations; and
5. Determining future governance arrangements for the Association.

1—Professional and ethical standards / Complaints and discipline handling

The SPLA has sought to maintain and improve the reputation and integrity of the South Pacific legal profession. In close collaboration with the Law Council, the SPLA has advanced this goal on behalf of its member bodies through the following specific initiatives:

Model South Pacific Legal Professional Rules Project

In 2008, the SPLA Steering Committee commenced work on a proposal to conduct a feasibility study into the development of model legal professional rules for South Pacific countries. The aims of the proposed feasibility study are to determine:

- The geographical coverage of model legal professional conduct rules (model conduct rules);
- The need and/or desire of South Pacific countries within that coverage for model conduct rules for the legal profession;
- Possible formats and structures for model conduct rules;
- The advantages/disadvantages of model conduct rules (to clients, court, society, the profession and to law societies);
- Economic, social/cultural, legal and political barriers to the development and/or implementation of model conduct rules; and
- The likely costs of developing and maintaining model conduct rules.

The proposal received the endorsement of the Pacific Island Law Officers Network (PILON) at its meeting in December 2008 and is likely to be advanced in the second half of 2011.

Papua New Guinea (PNG) Technical Assistance Program

In March 2010, the Australian Government's PNG Activity Management Team approved funding for a scoping study to be conducted in PNG to directly assess the PNG Law Society's needs in relation to its complaints and discipline handling procedures and outstanding disciplinary files. On 21-25 June 2010, Mr James Leach, General Manager Professional

Standards, Law Institute of Victoria, visited PNG to conduct the study.

The key recommendations of Mr Leach's Scoping Study Report were that:

- ▶ The PNG Law Society receive funding of 80,000 kina p.a. to support an additional complaints officer;
- ▶ Reforms be made to the structure of the Statutory Committee;
- ▶ Assistance be provided by Australian regulatory authorities to clear the backlog of complaints files; and
- ▶ A comprehensive proposal be developed and submitted to the PNG Department of Justice and Attorney-General to give effect to the recommendations of the Report.

The Report also made a number of technical recommendations regarding the regulation of the legal profession under the *Lawyers Act 1986*.

In March 2011, a proposal was submitted to the PNG Department of Justice and Attorney-General seeking 300,000 kina over three years to strengthen legal profession regulation in PNG. The proposal included a request for funding over three years for a new officer to support the PNG Law Society's complaints and discipline handling and continuing legal education functions. It also included a request for funding to conduct ad hoc short-term visits from Australia in 2011 to:

- ▶ Accelerate the complaints file sorting process; and
- ▶ Prosecute complaints (with assistance from the Queensland, Victorian and New South Wales Bars).

It is expected that further activity will take place in the second half of 2011.

2—Continuing Legal Education / Professional Development

In relation to Continuing Legal Education (CLE) and Continuing Professional Development (CPD), the SPLA Steering Committee has considered a range of initiatives which are directed to improving the structure and quality of CLE and the ability of South Pacific law associations to deliver relevant training programs to their members.

Key achievements to date include:

CLE partnership agreements

Lawyers in South Pacific countries often need to travel to other countries, such as Fiji, New Zealand, or Australia to attend conferences and training courses. This places a financial strain on lawyers and discourages development of legal skills and expertise.

In an effort to reduce this burden, the SPLA has entered into agreements with the New Zealand Law Society, the Law Society of New South Wales, the Queensland Law Society and the Law Institute of Victoria to provide access to CLE training courses and seminars for South Pacific lawyers at reduced rates and continues to seek out partnerships.

Distribution of CLE Material

In March 2011, the SPLA distributed a substantial package of CLE materials in a range of subject areas identified by the SPLA Steering Committee to peak legal professional bodies in the South Pacific region. The initiative was made possible through the generosity of the Queensland Law Society and the New South Wales Law Society, each of which donated extensive compilations of CLE/CPD DVDs and training seminars/workshops on the following topics:

- ▶ Advocacy;
- ▶ Alternative Dispute Resolution;
- ▶ Bankruptcy;
- ▶ Criminal Law;
- ▶ Drafting and Advocacy;
- ▶ Ethics & Professional Responsibility;

- Estate Planning, Will Drafting and Estate Administration;
- Evidence;
- Government Lawyer's training session;
- Trust Accounting;
- Negotiation Skills;
- Practice Management;
- Franchising;
- Cross Border Protection of Children; and
- Intellectual Property.

The SPLA is currently working with member bodies to assist them to develop a schedule of CLE events for 2011-12 and to discuss the promotion of their activities through the SPLA website.

Australian Bar Association (ABA) Trial Advocacy Scholarship

With the generous support of the ABA, the SPLA offered two scholarships to lawyers from South Pacific countries to attend the ABA's Trial Advocacy Course, held in Perth from 4-8 July 2011. The scholarships are each valued at AUD3,300, covering course fees, accommodation and meals.

Applications were received from a strong field of candidates. A selection panel comprising members of the SPLA Steering Committee was formed to evaluate scholarship applications. The two scholarship recipients, Ms Barina Waqa from Nauru, and Mr Solomon Kalu from the Solomon Islands, were announced in early May 2011.

It is anticipated that Advocacy Scholarships will continue to be offered on an annual basis with ongoing support from the ABA.

3—Regional linkages, publications and information sharing

Peak legal representative bodies have an important part to play in facilitating the exchange of ideas, information and resources among member organisations. The SPLA has sought to promote a regional identity for the South Pacific legal profession primarily through the SPLA website, launched in 2009. In May 2011, the Association launched its member newsletter, *NewSPLAsh*.

SPLA website

The SPLA website (www.southpacificlawyers.org) was launched in mid-2009 as a means for linking South Pacific Island law societies, the IBA, the Law Council of Australia, and the Law Society of New Zealand. The website features background information relating to the structure and purpose of the SPLA; current legal news, educational resources and notification of upcoming events of relevance to legal practitioners in the South Pacific; and general information pertaining to each member jurisdiction. It also includes an email contact form, through which the SPLA Secretariat regularly receives requests for information and assistance.

SPLA newsletter

In May 2011 the SPLA published the first edition of its quarterly e-newsletter, *NewSPLAsh*, which is intended to deliver regular updates on SPLA projects to members and other interested parties. The e-newsletter is emailed to member associations, individual subscribers and major legal organisations such as the IBA. It is also available on the SPLA website in PDF format.

NewSPLAsh aims to link the South Pacific region's peak legal bodies with each other and the wider international legal community by providing informative articles, member profiles and news on regional issues and events.

4—Needs Evaluation Survey for South Pacific Lawyer Associations

One of the chief goals of the SPLA is to promote effective and sustainable administrative structures for the representation and regulation of the legal profession in member countries. As an initial step to improve the quality of services that local law associations provide to their members and the general community, in August 2010 the SPLA Steering Committee approved the development of a survey of South Pacific law associations to assess the immediate and long-term needs of member bodies in the following areas:

- Infrastructure
- Continuing legal education / continuing professional development
- Complaints and discipline handling
- Legal aid / legal assistance
- Register of legal practitioners
- Trust accounting and audits
- Publications and information resources

The SPLA received financial support from the IBA to conduct the *Needs Evaluation Survey of South Pacific Lawyer Associations*, and in December 2010, a pro forma survey was distributed to member associations for completion.

The information gathered has been used to prepare a report on the needs of South Pacific law associations in key areas. The report will inform the development of proposals for sustainable assistance from international legal professional bodies and international aid organisations. These proposals will be developed by the SPLA Secretariat in collaboration with each professional body and will be specific to the needs of each professional body.

5—Governance of the SPLA

In December 2008, the SPLA Steering Committee formed a Constitution Subcommittee to commence work on drafting a Constitution to guide the future development of the SPLA. The Subcommittee comprised:

- Mr Ross Ray QC (chair);
- Mr Kerenga Kua;
- Mr Rodney Kingmele; and
- Mr David Naylor (SPLA Administrator).

The Steering Committee considered that as the SPLA developed, formal governance structures would become increasingly necessary for a variety of reasons, including:

- a) Accountability—both to members and to external organisations;
- b) Continuity of the organisation as representatives come and go;
- c) Efficiency of administration; and
- d) Strategic planning.

It was considered that the development of a properly considered Constitution would provide for situations which are currently dealt with on an ad hoc basis by the Steering Committee. The proposed Constitution would serve to enshrine the purpose and objectives of the Association and establish rules for membership, withdrawal, election of office-bearers, the primary responsibility of office bearers, the frequency of meetings and other matters necessary to the operation of the Association. By-laws established under the Constitution would provide for rules and procedures necessary to carry out the Constitution.

On 17 September 2009, the Steering Committee endorsed the draft Constitution prepared by the Constitution Subcommittee and requested that it be circulated for consideration by the Executive of Constituent Bodies of the Association.

As at 1 January 2011, the draft Constitution had received majority endorsement from Constituent Bodies. It is expected to be formally adopted at the SPLA's inaugural Annual General Meeting on 11 July 2011, at which time an SPLA Executive will be elected to replace the current Steering Committee.

Timeline of key SPLA developments

February 2002

The International Bar Association (IBA) hosts the South Pacific Islands Regional and Bar Leaders Conference and Pacific Leaders' Forum in Fiji. The Conference and Forum brings together bar leaders from 15 countries in the region to discuss issues common to the legal profession in the region.

2005-06

The IBA endorses a joint proposal developed by the Fiji Law Society, Law Council of Australia and New Zealand Law Society to establish a "South Pacific Bars' Secretariat" to support legal professional associations in the South Pacific region.

February 2007

Seed funding is received from the IBA to establish the SPBS.

September 2007

The 2007 South Pacific Forum and Legal Services Roundtable brings together 21 legal profession representatives from 11 countries. Delegates vote unanimously to establish a Steering Committee to oversee the development of the South Pacific Bars' Secretariat (SPBS). Attendance by participants is made possible by the support of AusAID.

March/April 2008

First teleconference of the SPBS Steering Committee and election to Steering Committee of officers from Samoa and Solomon Islands to represent smaller Member Associations.

July 2008

Strategic direction for the SPBS is discussed at the first face-to-face meeting of the SPBS Steering Committee in Nadi, Fiji as part of the South Pacific Law Conference. Key priorities identified include Continuing Legal Education (CLE), complaints and discipline handling and the development of the SPBS.

December 2008

The SPBS Steering Committee establishes a Constitution Subcommittee to draft a Constitution for the SPBS and endorses the redevelopment of the SPBS website.

July 2009

The Association's name is changed to the South Pacific Lawyers' Association (SPLA) to reflect the representative nature of the Association. The SPLA website is launched (www.southpacificlawyers.org).

September 2009

The second face-to-face meeting is held in Perth as part of the Australian Legal Convention, and the draft SPLA Constitution is formally endorsed by the SPLA Steering Committee.

June 2010

The SPLA, with the assistance of the Law Council of Australia, conducts a scoping study overseen by Mr James Leach, General Manager Professional Standards, Law Institute of Victoria, into the needs of the Papua New Guinea Law Society to redevelop its complaints and discipline handling processes and procedures. The Leach Report makes a number of recommendations for reform.

August 2010

The third face-to-face meeting of the SPLA Steering Committee is held in Brisbane, Australia as part of the Third Access to Justice and Pro Bono Conference. The SPLA Steering Committee resolves to conduct a comprehensive survey of members' needs.

December 2010

The SPLA launches its *Needs Evaluation Survey* of South Pacific Lawyer Associations with financial support from the IBA.

March 2011

The SPLA, with the support of the Queensland Law Society and the Law Society of New South Wales' Young Lawyers Section, distribute Continuing Legal Education DVD resources to member associations. The SPLA and the PNG Law Society submit proposals based on the Leach Report to the PNG Department of Justice and Attorney-General seeking assistance for the PNG Law Society to effectively regulate the legal profession.

April 2011

The SPLA and the Australian Bar Association (ABA) combine to offer two scholarships to lawyers from the South Pacific Region to participate in the ABA's trial advocacy course. Successful recipients are Ms Barina Waqa from Nauru and Mr Solomon Kalu from the Solomon Islands.

May 2011

The SPLA launches its quarterly e-newsletter, *NewSPLAsh*.

July 2011

The SPLA is officially launched, and the inaugural Annual General Meeting and election of SPLA Executive is held in Sydney, Australia.

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The South Pacific Lawyers' Association was established in 2007 with the support of the International Bar Association, in partnership with the Law Council of Australia and the New Zealand Law Society. The 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.



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