



Concept Note

MEMBERSHIP IN THE ROME STATUTE – WHY AND HOW?

Workshop on the International Criminal Court

(8 September 2017; Apia, Samoa)

The International Criminal Court – What is it?

The International Criminal Court is an independent judicial institution with the mandate to investigate and prosecute the most serious crimes under international law – genocide, crimes against humanity and war crimes – when national jurisdictions are unable or unwilling to do so. As a permanent court of last resort, the ICC plays a key role in the international community's efforts to end impunity for the perpetrators of these atrocious crimes, ensure justice to victims and contribute to the prevention of such crimes.

The ICC was created by a multilateral treaty- the Rome Statute - adopted in 1998, coming into force in 2002. Today, the Rome Statute has 124 States Parties, including eight Member States of the Pacific Islands Forum - Australia, Cook Islands, Fiji, Marshall Islands, Nauru, New Zealand, Samoa and Vanuatu.

Importantly, the Rome Statute established not just a Court but rather a system which encourages States to fulfil their primary responsibility to investigate and prosecute the most serious crimes of concern to the international community. The Court itself serves as a complementary forum for investigation and prosecution at the international level in those instances where there is no State which is willing or able genuinely to do so. Fundamentally the aim is to fill any impunity gaps and ensure justice for the victims of these grave crimes.

Why a Workshop for the Pacific Islands?

The effectiveness of the Rome Statute system is limited by the fact that it does not equally apply across the globe. The Court can only exercise jurisdiction over crimes if they are alleged to have occurred in the territory of a State Party or if the alleged perpetrators are nationals of a State Party. As a result, until the Rome Statute has universal adherence by States there remains a gap and the goal of bringing an end to impunity cannot be attained. Each ratification increases the collective strength and legitimacy of the system by demonstrating the importance that the global community attaches to this matter.

Thus all States have a role to play and contribution to make to ensure this aspiration can be achieved.



Workshop Goals

The goal of the workshop is to encourage Pacific Islands States who have yet to do so to become parties to the Rome Statute. In aid of this goal the workshop will have three components.

- Firstly, a discussion of the reasons why ratification of the Rome Statute is relevant and important for Pacific Islands States. In particular the significance of the rule of law and international cooperation for the protection of small States and their populations will be highlighted.
- Secondly, provide the participants with information on the ICC through a brief overview of the Court's functioning with particular focus on what it means to be a State Party. When and how does the Court initiate and conduct investigations? How do States Parties participate in the Court's work? What are their obligations? What opportunities does it present?
- Thirdly, a discussion of the challenges or obstacles to ratification by the Pacific Islands States, where the participants would have an opportunity to share their concerns and exchange with States Parties in the region as to how those can be overcome. Relevant reference documents such as the Commonwealth Model Law to Implement the Rome Statute as well as possible sources of technical assistance will be discussed. The session will also provide a unique opportunity to engage directly with senior representatives of the Court who are happy to answer any questions that participants may have.

The presenters at the Workshop will include the President of the International Criminal Court, Judge Silvia Fernández de Gurmendi, as well as Tuiloma Neroni Slade, former Secretary-General of the Pacific Islands Forum, who was one of the very first judges elected to the ICC and served at the Court 2003-2006.